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ABSTRACT

This booklet presents the comments and recommendations of the Regents of the University of the State of New York to the second session of the 95th Congress. The booklet focuses on six main recommendations of the regents. First, Congress should carefully consider Title I of the Elementary and Secondary Education Act, with special attention to more equitable treatment of urban areas and more meaningful parent involvement in education. Second, Congress should examine the need for a new Immigrant Education Program. Third, the Rehabilitation Act of 1973 should be reauthorized, with revision of the current state-by-state distribution formula. Fourth, the FY 1978 Second Supplemental Organization Act should include funds to aid in renovating facilities to provide improved access for handicapped students. Fifth, the Youth Employment Demonstration Program should be continued, with strengthened involvement of education institutions. Sixth, middle-income families' access to postsecondary education should be enhanced through income tax relief measures. (Author/JG)

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Federal Legislation and Education in New York State

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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The University of the State of New York
The State Education Department
Albany
February 1978

EA 010 610

THE UNIVERSITY OF THE STATE OF NEW YORK

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Foreword

The second session of the 95th Congress has a major agenda of education issues to consider in 1978. Several important revisions of statutes and appropriations items will be decided with important implications for education programs in the 1980's.

We have highlighted a large number of issues of particular interest to New York State.

First, the Congress will review and revise the many programs authorized by the Elementary and Secondary Education Act. Major consideration must be given to Title I, the largest single Federal program in elementary and secondary education. Special attention should be focused on a more equitable treatment of urban areas in the legislation, rules and regulations, and distribution of funds which create difficulties at the operational level and on a more meaningful involvement of parents in the education of their children.

Second, attention should be focused on the need for a new Immigrant Education Program, particularly for school districts burdened with large influxes of both legal and and illegal immigrant children.

Third, the Rehabilitation Act of 1973 must be reauthorized with special consideration given to revision of the current state-by-state distribution formula.

Fourth, the FY 1978 Second Supplemental Appropriation Act should include funds to assist state and local agencies and institutions to renovate facilities for program access to the handicapped, in accordance with recently signed Section 504 regulations.

Fifth, the new provision for Youth Employment Demonstration Programs expires on September 30, 1978. The youth employment and training programs represent a vital experiment in developing desirable linkages between manpower and education. The programs should continue with the strengthened involvement of education institutions.

Sixth, opportunities for students from middle-income families to attend postsecondary education institutions must be enhanced through measures for income tax relief.

These recommendations and others are described in this year's edition of the Regents' series, "Federal Legislation and Education in New York State." I join with the Regents in urging review and consideration of the recommendations by the Congressional Delegations of New York and other States, the President, and Executive agencies concerned with education.

Sincerely,

Theodore M. Ambach

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I. INTRODUCTION

The Federal role in assisting state and local educational agencies, postsecondary institutions and other educational institutions has grown significantly in the last two decades. As Federal support of education has increased, Federal legislation and regulations have become more prescriptive, and the Federal "presence" has had a significant impact on state and local educational policy and practice. The receipt of Federal funds remains contingent upon compliance with Federal requirements. We believe, however, that requirements upon state and local agencies have become excessive for the proportion of Federal assistance available. More important, we believe recent Federal initiatives have intruded improperly on state and local authority and threaten to upset the constitutional division of local, state, and Federal responsibility for education.

In the second session of the 95th Congress, it is important to be mindful of basic assignments for educational responsibility in the United States. As the President and the Congress consider proposals

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Supreme Court Decisions on State Authority for Education

A number of historic United States Supreme Court decisions support the reserved powers of states in the field of public education. In *Brown vs. Board of Education* (1954), the U.S. Supreme Court stated that "education is perhaps the most important function of state and local governments." In 1972, the Court recognized that "providing public schools ranks at the very apex of the function of a state" *(Wisconsin vs. Yoder.)*

The provision of a free public education for all citizens is a state constitutional priority. Public education is mandated by state constitution in 48 of the 50 states, and 49 states have compulsory attendance laws.

While the U.S. Constitution does not guarantee the right of public education *(San Antonio vs. Rodriguez,* 1973), it does address the Federal-state relationship. In 1941, the Supreme Court stated the following on the Tenth Amendment: "The Amendment states but a 'truism' that all is retained (by the states and the people) which has not been surrendered" *(United States vs. Darby).* In *Fry vs. United States,* the Court further recognized that "the Amendment expressly declares the constitutional policy that Congress may not exercise power in a fashion that impairs the states' integrity or their ability to function effectively in a federal system."

However, it is widely interpreted that Congress has the authority to legislate for education programs pursuant to the spending power conferred by Art. I, Sec. 8, of the U.S. Constitution, and pursuant to the Equal Protection Clause of the Fourteenth Amendment. By the former authority, it has been established that Congress may set conditions upon which money and goods are distributed. The Supreme Court held in *Oklahoma vs. Civil Service Commission* (1947) that the Federal government may "fix the terms on which Federal funds . . . shall be disbursed.

States and localities are not required to accept Federal assistance or Federal funds. If they do so voluntarily, they enter into a contractual relationship and accept the

for new enactments or renewals of existing acts, the issue of proper jurisdiction must be reviewed. We include in this introduction a brief note on "Supreme Court Decisions on State Authority for Education." We urge review of that summary.

Responsibility for providing public education constitutionally and traditionally has rested with the states and their local jurisdictions. As states have accepted Federal assistance, a contractual relationship has developed between state and Federal partners. The Congress has recognized the Federal government's limited authority in education. In 1970, the General Education Provisions Act was amended to include a "Prohibition Against Federal Control of Education." This amendment prohibits the Federal government from exercising any "direction, supervision, or control over the curriculum, program of instruction, administration or personnel of any educational institution, school, or school system." The Education Amendments of 1976 extend this provision to all programs in the Education Division of the Department of Health, Education and Welfare.

Recent Federal legislation in education, however, includes provisions that displace state choices in structuring governmental operations and in requirements of educational service. The Federal partner appears to have stepped beyond constitutional bounds.

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conditions upon which the assistance is offered. In July 1974, the U.S. District Court for New Jersey found with respect to Federal education programs that "research . . . indicates that all the programs are voluntary on the part of the state of New Jersey, and may be terminated at will by the state" (*New Jersey School Boards vs. Supreme Court of the State of New Jersey*).

There are limits to this reasoning, however. If we assume that Congress has the authority to provide for education programs, certainly this authority should not be construed as an unlimited prescriptive license.

In a 1976 decision on *National League of Cities vs. Usery*, the Supreme Court addressed this very issue. The Court said it had "repeatedly recognized that there are attributes of sovereignty attaching to every state government that may not be impaired by Congress, not because Congress may lack an affirmative grant of legislative authority to reach the matter, but because the Constitution prohibits it from exercising the authority in that matter." Although its ruling in that case was directed strictly to authority granted Congress under the Commerce Clause (Art. 1, Sec. 8), and specifically by footnote expressed no view on the Spending Power or the Equal Protection Clause, the reasoning is applicable to Federal-state relations in education.

At stake here is the question whether "attributes of state sovereignty" are impaired by increasing Federal prescription affecting the states' provision of a free public education. Again, in *National League of Cities*, the Supreme Court warned, "If Congress may withdraw from the states the authority to make those . . . decisions upon which . . . [public service] functions must rest, we think there would be little left of the states' 'separable and independence existence.'" The Court stated decisively that "Congress may not exercise that power so as to force directly upon the states its choices as to how essential decisions regarding the conduct of integral governmental functions are to be made." Then the Court concluded that "such assertions of power, if unchecked, would indeed . . . allow 'the national government (to) devour the essentials of state sovereignty.'"

The Congress will address this year issues related to existing Federal statutes impacting directly on elementary and secondary education, adult education, vocational rehabilitation, and youth employment and training programs. As these programs are reviewed, we urge increased recognition of the state role in planning, coordinating, and financing education. There must also be a greater recognition of the diversity among states in fiscal capacity and effort, and in changing economic and demographic conditions.

Key decisions must be made on the direction of the Federal government's involvement in shaping the structure of education. The national concern has traditionally been one of providing for special needs. This effort must be coordinated at the state level with state and local efforts in providing for special needs. More efficient delivery of Federal education resources can be accomplished if state education agencies are better used to provide the intermediate level services of planning, administering, and evaluating Federal programs in local education agencies and institutions. It is our belief that a major Federal objective should be the attainment of greater educational efficiency and effectiveness through the expansion of state education agency responsibility in Federal programs.

II. GUIDELINES FOR FEDERAL EDUCATION PROGRAMS

We urge these principles for Federal education programs:

1. Elementary and secondary education is the responsibility of the states, and the major portion of funding for such education is from state and local resources. Federal funding should supplement these resources and should be directed toward particular needs in accordance with Federal purposes. Federal legislation should not direct the expenditure of state and local resources.
2. Federal programs should provide services to particular population groups such as the economically and educationally disadvantaged, the mentally and physically handicapped, the gifted and talented, persons requiring programs of occupational education, and children in need of early childhood education programs.
3. Federal programs with similar purposes serving the same population should be consolidated to assure program consistency and to provide administrative efficiency. Where programs are consolidated, state and local administrative agencies should have flexibility to use funds within the broad purposes of the consolidated act and not be constrained by provisions for each former separate program.

4. Federal funds should be provided to the states in a manner that will further the equalization of opportunity among school districts in a state by means of the combination of Federal with state and local funds.
5. Although Federal funds should assist in equalizing educational opportunities and outcomes for individuals among the states, this does not necessarily mean equal dollars per pupil to all states. Regional difference in cost of services, tax effort, and the fiscal capacity of the state related to the overall commitment to expenditure for social programs must be considered in the Federal distribution of funds.
6. In addition to support of educational operations as indicated above, Federal funds should be used for research and development activities which require a critical mass of resources not available to a single state, local school district, or institution; and for educational personnel development through aid to the states; and, in turn, to local districts, for both preservice and inservice training in educational institutions and in teacher centers.

   Educational research and development funded by the Federal government should be conducted cooperatively between Federal agencies and state agencies with demonstrated capacity. Research and development program efforts must link Federal, state, local school, and classroom personnel in a vertical relationship to assure that these efforts will have a direct impact on instruction.
7. Once appropriation levels for Federal education programs are set for a fiscal year, they should not be altered by administrative deferrals or rescissions.
8. The Federal government should not place on state and local agencies and institutions legislative mandates which create expectations not readily achievable without the commitment of substantial resources. At this time of fiscal crisis, if such mandates are to be legislated and enforced, the Federal government should provide assistance to state and local agencies and institutions to help meet the expressed needs.
9. Federal funds should be administered through state education agencies so that these funds can be linked with state and local resources for coordinated support of education. A larger percentage of Federal funds should be used to develop state plans for the use of funds, administration of funds, monitoring of programs, and evaluation of programs. Federal regional services offices should be discontinued in order to provide a direct relationship between the states and the U.S. Office of Education in the administration of Federal programs. In administering Federal funds, the states should require that local school districts have district and school plans for the use and evaluation of Federal funds.
10. Federal programs administered by agencies other than the Department of Health, Education and Welfare and having direct impact on education should be coordinated with existing

education programs at both the Federal and state levels. Federal funds should not be used to establish duplicative or competing education or training programs.

Federal Support of Nonpublic Education

The critical fiscal plight of public education is shared by the nonpublic sector. In recent times, parents of children attending nonpublic schools and the administrators and teachers in those institutions have sought assistance from Federal and state governments by way of funds and services. The Regents of New York State have overall responsibility for the education of all children. In fulfillment of that obligation, we have endorsed governmental assistance to the pupils in nonpublic schools within certain guidelines.

Legislation to aid children in nonpublic education should not jeopardize the welfare, stability, and adequacy of support for public schools.

Such legislation should be effective in providing meaningful opportunities to children of lower-income families who, of all groups, have the least choice about when and where their children are to be educated, and to middle-income families whose resources are strained by high tuition costs.

Public support of nonpublic education must be sufficient to maintain a pluralistic system adequate in quality and economical in operation, but not so large as to jeopardize the independence of nonpublic schools or to dry up sources of private and philanthropic support, or to encourage organization of new schools with the purpose or effect of increasing racial separatism.

Such legislation should require accountability for public funds received, contain safeguards against racial and social class isolation in the nonpublic schools, prohibit use of public funds for any sectarian purpose or function, and provide for nondiscriminatory admission policies except where permitted by law on the basis of creed.

All nonpublic schools receiving public funds should meet standards of quality prescribed by state and local authority. The Federal government should not intervene in setting such standards.

Finally, such legislation must conform to constitutional principles enunciated by the courts or have reasonable prospects of being approved by the courts in the event of a challenge. We commend the Federal government on the programs and services which bring education benefits to children in nonpublic schools. We urge not only proper vigilance against what may be constitutionally impermissible, but also vigilance to assure the delivery of services judged legitimate and necessary.

Relief From the Paper Blizzard

A continuing task of the regulatory process is analysis of existing regulations to determine how they can be simplified to reduce paperwork. The paperwork burden imposed by Federal regulations upon state and local education agencies and institutions of postsecondary education continues to grow. Requirements for data collection and recordkeeping as part of state and local administration of Federal programs constitute a blizzard of paperwork. The problem is especially acute for small and poorer institutions and in modest programs in which the administrative work overwhelms the projects. There is an urgent need to simplify regulations to minimize paperwork.

We were instrumental in bringing about enactment of the "Control of Paperwork" amendment to Title IV, General Education Provisions of the Education Amendments of 1976 (Sec. 406 (g)). Continued efforts should be directed toward minimizing or eliminating burdensome requirements for collecting and reporting data. The following principles should be considered:

1. Federal programs should provide for multiyear state and local plans and applications with annual updates required only to reflect significant changes. Repetitive annual state and local plans and applications create volumes of unnecessary paperwork since few substantive changes occur from year to year.
2. The Federal administration of programs aimed at the same populations should be consolidated within agencies, and coordinated among agencies. The lack of a centralized system of grants and program management at the Federal level intensifies problems of communication and administration faced by state and local education agencies.
3. Whenever possible, state and Federal data collection activities and deadlines should be coordinated. The U.S. Office of Education should be allowed to negotiate agreements with individual states where state law and Federal data requirements are not compatible.
4. A stronger Federal-state cooperative system of data collection should be developed in education similar to existing systems in other Federal agencies such as the Department of Labor, the Bureau of the Census, the Law Enforcement Assistance Administration, and the Department of Agriculture. Building streamlined information systems in state education agencies will substantially improve the reliability and timeliness of educational statistics at both the state and Federal levels, and at the same time reduce the data burden placed on local education agencies.
5. The Congress should consider the recommendations on paperwork reform contained in the April 29, 1977, *Report of the Commission on Federal Paper Work, Education*, and in particular Section V entitled "Management Controls."

III. ALLOCATION OF FUNDS AMONG THE STATES

Inequities result when current formulas for Federal aid are based on criteria that were developed under different conditions in the past. The various factors in a formula are usually based on certain demographic and economic features which are the key to determining the flow of resources from the Federal to state levels. Such factors have included variations in population, general or special; per capita income; state and local expenditures; and various combinations of them in mathematical equations. As economic and demographic features change over time, however, periodic adjustment, or a total review of these factors, is required to assure effective program impact.

A review of the development of Federal allocation formulas shows population measures were the dominant factor from the first grant in 1862, under the Morrill Land Grant Act, through the first third of the 20th century. During the 1930's, collapsing state finances resulted in a shift toward including state expenditures as a factor. The post-World War II period saw an expansion of Federal assistance in areas of health, education, and welfare which generated many of the formula factors existing today.

The Hospital Survey and Construction Act of 1946 represented a major change in Congressional thinking that now burdens the high per capita income states. The allocation formula in this Act determined need by comparing per capita income of a state with the per capita income of all states. At that time, there was wide variance in state per capita incomes between the more densely populated states of the Northeast and the less populated states of the South and West. The role of the Federal government was seen as redistributing the wealth of the Northeast and stimulating the lagging economy of the South and West.

This philosophy was carried forward in the 1954 amendments to the Vocational Rehabilitation Act of 1920. Still in use today, the formula relies on two factors: general population and state/national per capita income, with a "squaring" of the latter's inverse ratio. This resulted in a sharp skewing of funds to low per capita income states. The intent was to give these states added stimulus and encouragement in what, at that time, was their slow development of vocational rehabilitation services.

The Advisory Commission on Intergovernmental Relations has identified more than 40 Federal programs which use income or some other financial indicator as a formula factor. In addition, ap-

proximately 100 Federal programs use some measure of population as a criterion, of which half are special population factors. These variables play a large role in the increasing Federal involvement not only in education, but in other programs affecting our everyday lives. Nationwide population trends and changing economic patterns dictate corrective measures to meet present conditions.

The South and the West, the traditional beneficiaries of revenue transfers, are experiencing unprecedented growth and prosperity, while the Northeast is suffering from declines in population and economic growth. The table below is illustrative of the trends from 1950 to 1975.

Less-than-average percentage growth is found in New England, the Mideast, the Great Lakes and the Plains. By contrast, greater-than-average growth is found for the most part in the Southeast, Southwest, Rocky Mountains, and Far West. The shift in population and income is spurred as (1) many people in the labor force move to locations where income and job opportunities are expanding and (2) retirees take their income to other areas, inducing additional jobs and income there.

TABLE I

PERCENT CHANGES IN TOTAL PERSONAL INCOME, PER CAPITA INCOME, AND POPULATION OF THE U.S. BY REGION: 1950–1975[1]
(BASED ON 1967 DOLLARS)

STATE	% Change Total Personal Income	% Change Per Capita Income	% Change Population
United States	162	86	40
New England	136	68	31
Mideast	119	80	26
Great Lakes	133	71	34
Plains	127	90	18
Southeast	230	128	41
Southwest	220	91	60
Rocky Mountains	194	80	63
Far West	234	81	95

[1] *Source*: U.S. Department of Commerce, Bureau of Economic Analysis.

In April of 1974, the U.S. Department of Commerce, Bureau of Economic Analysis, projected trends into the 1990's. Regions with increasing shares of income include the Southeast, Southwest, and the Rocky Mountain States; regions with income trends close to the national average include the Far West and New England; and regions with pronounced declines include the Mideast, Great Lakes, and Plains States. In tracking these economic projections in April of 1976, the Bureau noted that data for 1971–75 indicate that states projected to grow slowly grew even more slowly in this period; and states projected to grow rapidly grew even more rapidly. Growth states benefited from the continuing geographic dispersion of manufacturing, from sharp increases in the demand for domestically produced energy, and from unusually good years of agricultural income—all of which supported increased levels of activity in major-service industries and construction.

Slow-growth states, particularly New York, Rhode Island, Vermont and Massachusetts, have not recovered fully from the recession. The Bureau noted that:

> The New York economy, which was overestimated throughout the 1971–75 period, did not return to its long-term growth path following the 1970 recession as business establishments continued their exodus, particularly from New York City. Earnings from the important finance and trade industries, as well as from other service-type industries, have continued to be unexpectedly low. In addition, New York's manufacturing earnings which, prior to 1970, were somewhat cycle-resistant, have been consistently overestimated.

Population trends are also skewed in this period. New York and Florida had the greatest percentage change in population, with New York dropping and Florida gaining. Of the 22 states with population change, 11 states in the Northeast and Midwest decreased in their percentage of the total national population, while 11 states in the South and West increased.

Table II below illustrates the trends among regions in this period.

These recent trends indicate a larger-than-expected redistribution of economic activity and population between the Northeast-Great Lakes industrial states and a group of Western and Southern states. In the slow-growth, industrial, urbanized states, the implications for education are evident: less resources but increased costs per pupil due to inflationary pressures in higher-than-average cost-of-living areas. This problem is compounded by recent court decisions; legislative pressures; and Federal prodding to equalize education expenditures among districts, and to provide adequate special education

TABLE II

PERCENT CHANGES IN TOTAL PERSONAL INCOME, PER CAPITA INCOME, AND POPULATION OF THE U.S. BY REGION: 1971–1975[1] (BASED ON 1967 DOLLARS)

STATE	% Change Total Personal Income	% Change Per Capita Income	% Change Population
United States	11	8	3
New England	6	5	1
Mideast	4	6	−.5
Great Lakes	8	7	1
Plains	13	15	1
Southeast	18	11	7
Southwest	23	11	8
Rocky Mountains	23	14	10
Far West	14	15	5

[1] *Source:* U.S. Department of Commerce, Bureau of Economic Analysis.

services for those with limited English-speaking ability and students with handicapping conditions.

At the same time, New York and other Northeast states still contribute more to elementary and secondary education than many Southeast states. Table III indicates figures for selected states.

New York, New Jersey, and Connecticut contribute more than three-quarters of their total education expenditures to the elementary and secondary area, well above the national average. By contrast, Idaho, Alabama, and Kentucky are below the national average in their contributions to elementary and secondary education, but concentrate more dollars on postsecondary education.

Some Federal allocation formulas, however, penalize states that make a greater effort in elementary and secondary education. For example, the ESEA, Title I, formula fixes a ceiling on states with average per pupil expenditures above 120 percent of the national average per pupil expenditure. While enrollment is declining, per pupil costs continue to rise. The Federal education dollar in states with per pupil expenditures above the national average has less impact than in other states. Ohese states thus receive fewer dollars. They are the states which are also suffering economically. But states which put forth less effort benefit.

[11]

TABLE III

PERCENTAGE EXPENDITURES FOR EDUCATION: ELEMENTARY/SECONDARY, POSTSECONDARY AND STATE AVERAGE PER PUPIL EXPENDITURES FOR SELECTED STATES[1]

1971–72

(In Millions of Dollars)

State	Combined Elem/Sec & Postsec	Elem/Sec	%	Postsec	%	1974–75 PPE
New York	7,055.8	5,616.7	79.6	1,439.1	20.4	2,005
New Jersey	2,222.8	1,861.1	83.7	361.7	16.3	1,565
Connecticut	948.0	792.1	83.6	155.9	16.4	1,507
National	62,531.7	46,670.4	74.6	15,861.3	25.4	1,255
Idaho	191.6	127.0	66.3	64.6	33.7	910
Alabama	731.5	484.1	66.2	247.4	33.8	871
Kentucky	733.6	491.0	66.9	242.6	33.1	864

[1] *Sources:* U.S. Department of Commerce.
U.S. Office of Education.

Recommendations

The 95th Congress must revise present anachronistic wealth distribution policies. The following guidelines should be taken into consideration.

—Population figures, both special and general, should be recent. Where an allocation formula distributes funds below the state level and where updated counts below the state level are not available at the Federal level but are available by state, the funds should be distributed to the state level. The mid-decade census legislation seeks to alleviate this problem, but it does not take effect until Fiscal Year 1985.

—Current population formulations are not objective. That is, definitions of target population, the manner in which needy persons are counted, and the data base used detract from objectivity. Extensive legislative efforts must be focused on the development of an official poverty measure. The necessity for the development of a single national poverty measure is dictated by inequity, redundancy and confusion in current legislation. Presently, a single piece of legislation may contain both an allocation formula for distributing fixed program funds and eligibility criteria for determining which individuals are entitled to assistance. Moreover, entirely different poverty measures may be used in various stages of one program. Even the widely used Orshansky Index is not uniformly applied. Thresholds are modified by multiplicative factors or by the inclusion of recipient characteristics as eligibility criteria to avoid penalizing some states. An official poverty measure is essential for adequately determining public policy, setting program goals, and evaluating program success. Such a measure would allow federally funded programs to identify target populations in a uniform manner while avoiding duplication, facilitate program consolidations, cut Federal expenses, reduce state and local redtape, and enhance program effectiveness. A committee of nonpartisan experts should be convened to formulate this measure. Special attention should be given to the development of objective scientific standards of need for food, shelter, medical care, and other essential elements of expense and their combination with current price and income data reasonably comparing poverty levels both geographically and over time. New population definitions and poverty cutoffs should be produced. Legislation should be revised uniformly to incorporate these measures.

—A national poverty measure must provide for geographic equivalence. Currently, measures such as the Orshansky Index do not recognize geographic need differences. The development of existing data sources is necessary to provide sufficient sample size and quality required to support a measure of geographical equivalence. Analyses of geographic cost differences and major expenditure categories for several types of families and income levels within each state should be undertaken. Attention should

be given to variations caused by regional and urban-rural differences and climate-attributable increases in expenditures. The formerly used Consumer Price Index should be discarded since it measures only changes in base prices in each city over time, rather than absolute price differences among areas. The geographic sensitivity of the Federal Consumer Expenditure Survey and inclusion of geographically sensitive pricing surveys with the Bureau of Labor Statistics price collection programs should be investigated in order to develop adequate geographical weightings. This information could be used effectively in conjunction with low-income consumption data. The argument that present data techniques prohibit the combined resources of Federal, state, and local governments from developing weightings is unacceptable.

—Provisions for updating the measure should be incorporated in its development. A method of annually updating the measure should be developed in order to accommodate changing economic conditions, population shifts, changes in population conditions, and other important referents. The Consumer Price Index should be eliminated as an updating measure because it is unresponsive to changes in consumption patterns, reflects mainly middle-class purchases, and cannot be used to study intercity differences. Instead, attention should be focused on revision and recombination of the level of nutrition scientifically necessary to good health, the multiplier relating total income requirements to food costs, the appropriateness of before-tax or after-tax income, the threshold for representative family types with adjustment cutoffs for large and small families, geographical influences on pricing patterns, and necessary level of family expenditure. Both weighting and updating should focus on prices affecting the poor rather than the middle class.

—In the use of income and other financial data, Federal formulas should take into account fiscal capacity and effort, remove penalties for effort, and prohibit disincentives to increased effort. Application of a tax effort index should be in more Federal programs. In addition, where per capita income is presently used, disposable per capita income should be substituted. Disposable per capita income is income less all taxes, leaving the real income individuals have for purchasing and investment.

IV. ESEA, TITLE I

In developing a comprehensive set of legislative changes for pupils with special educational needs under ESEA, Title I, we will focus on six major areas: formula inadequacies, difficulties at the operational level, problems of evaluating effectiveness, the need for an

expanded state role in Title I implementation, the need for increased parent involvement, and the question of allocating funds on the basis of educational achievement vs. economic data.

Formula Inadequacies

Formula distribution of ESEA, Title I, funds presents problems both in the state-Federal partnership and on an intrastate level.

Interstate Distribution

Several developments in the early 1970's warrant revision of the Title I distribution formula. The 1970 census data on poverty revealed major shifts in low-income populations which impacted heavily on the distribution pattern of Title I funds. In addition, the count of children in families on AFDC grew from 10 percent of the total Title I children in FY 1966 to more than 60 percent of the total in FY 1974. Both developments caused an increased distribution of funds to metropolitan areas. Major conflicts developed among cities and states over proposed adjustments in the formula to compensate for these changes.

The formula that was adopted in 1974 has major flaws. It includes an inequitable measure of poverty, lack of updated counts, and a penalty against high-effort states. The formula has produced a reduction of funds, from FY 1974 to FY 1976, for a number of the nation's largest cities. Table IV indicates the total dollar and percentage reductions in this period suffered by 19 cities. During the period, total national appropriations for the program *increased* 10 percent.

The reductions in the large cities result from the combination of the following factors in the present formula:

a. The use of the Orshansky poverty index as a method of determining income levels below which families are considered poor;
b. The diminishing proportion of AFDC counts in the formula;
c. The lack of updated poverty figures at the county level between decennial census counts;
d. The 120 percent ceiling on the states' average per pupil expenditure used in the payment rate of the formula;
e. The new definitions used to count migrant children, resulting in an increasing portion of Part A funds for the migrant program, to the loss of the local education agency portion of Part A; and
f. The phaseout in FY 1975 of Part C, special grants to urban and rural schools with the highest concentrations of low-income children.

TABLE IV

ASSISTANCE FOR EDUCATIONALLY DEPRIVED CHILDREN

ESEA, Title I [1]

City and State	1974	1976	Difference 1976–74	% Dec. 1976–74
Atlanta, GA	$ 5,391,804	$ 4,835,368	$ −556,436	−10.3
Boston, MA	8,119,262	7,423,747	−695,515	−8.6
Buffalo, NY	7,801,209	5,917,285	−1,883,974	−24.1
Camden, NJ	4,419,873	3,041,861	−1,378,012	−31.2
Charlotte, NC	2,531,404	2,296,957	−234,447	−9.3
Chicago, IL	49,196,646	45,507,048	−3,689,598	−7.5
Cleveland, OH	11,271,775	7,766,648	−3,505,127	−31.1
Des Moines, IA	1,329,358	1,235,488	−93,870	−7.1
Gary, IN	1,979,478	1,594,800	−384,678	−19.4
Los Angeles, CA	30,866,922	26,814,295	−4,052,627	−13.1
Louisville, KY	4,125,219	3,859,019	−266,200	−6.5
Minneapolis, MN	3,815,743	2,947,797	−867,946	−22.7
New York, NY	161,847,717	117,663,003	−44,184,714	−27.3
Newark, NJ	11,299,168	9,830,951	−1,468,217	−13.0
Philadelphia, PA	28,567,577	25,366,862	−3,200,715	−11.2
Rochester, NY	5,377,643	3,705,385	−1,672,258	−31.1
St. Paul, MN	2,029,243	1,745,640	−283,603	−14.0
Seattle, WA	2,465,561	2,092,963	−372,598	−15.1
Winston-Salem, NC	1,859,529	1,413,594	−445,935	−24.0

[1] *Source*: U.S. Office of Education.

The present formula has two parts: a poverty count and a payment rate. The poverty count consists of children, ages 5–17, in poor families as defined by the Orshansky poverty index applied to the 1970 census count, and two-thirds of the children from families receiving AFDC payments exceeding the Orshansky poverty figure for a nonfarm family of four. The poverty line used for a nonfarm family of four is updated annually according to rises in the Consumer Price Index. Because 1970 census data are used together with current AFDC data, there is a gap in the count. Also counted are children institutionalized because of neglect or delinquency, handicapped children, and migratory children.

The payment rate is set at 40 percent of a state's average per pupil expenditure, the expenditure factor not to be less than 80 percent or more than 120 percent of the national average per pupil expenditure. Each county is guaranteed no less than 85 percent of its previous year's allocation.

The Orshansky poverty levels vary according to size of family, farm or nonfarm residence, and whether the household head is over or under 65 years of age. Weaknesses in the use of this index are twofold: (1) the validity of the actual poverty income figures as measures of poverty, and (2) the lack of updated population statistics corresponding to the poverty levels.

The question of how valid the Orshansky index is in determining poverty is characteristic of various other poverty measures used by the Federal government. There is no one poverty measure which meets all the criteria necessary for a valid index. Indeed, the selection of criteria is a public policy, judgmental, or value-laden decision. For example, despite the farm/nonfarm variation, the Orshansky poverty levels do not take into account differences in the cost of living in various parts of the country; nor are they varied by rural/urban or suburban/central city residence. As a result, a nonfarm person living in a rural area is counted the same as a person living in a central city. As the U.S. farm population has decreased, the farm/nonfarm variation has become merely a token distinction relative to the actual number of poverty persons affected by cost-of-living differences.

In addition, the actual dollar values are based on food alone and do not take into account such other necessities as shelter, transportation, medical services, and clothing. This is a critical point for city dwellers who experience exceptionally high costs. Thus, when used to determine minimum income needs of the poverty population, Orshansky understates poverty conditions in high cost-of-living areas.

A major difficulty in using the Orshansky census count lies in the absence of updated population statistics corresponding to its poverty levels. Although the poverty levels are updated annually according to the rise in the Consumer Price Index, the population counts by state and county are available only from each decennial census. The recent mid-decade census legislation does not take effect until 1985. Further, the annual Current Population Surveys give only population figures for the nation and its regions in the following categories: farm/nonfarm, metropolitan/nonmetropolitan, and inside central cities/outside central cities. Such estimates are not made at the county level, which is a key factor for the Title I formula.

The Census Bureau has reported that the 1970 census missed counting approximately 5.3 million persons in the United States, most of whom are believed to be poor minority group members in the large cities. In addition, a recent HEW report, "The Measure of Poverty," indicates that two estimates were made in 1973 of the number of school-age children in poverty—one by the Census

Bure[illegible]ad the other by the Economic Analysis Division. Use of these estimates in the Title I formula would have shifted fund distribution in favor of the large industrial states due to an increase in the poverty population in these states during 1969–73. The report stated:

> This change undoubtedly reflects the fact that the slow economic growth experienced in the United States between 1969 and 1973 had a much greater negative impact on the large industrial states than it had on the smaller ones. As a result, relatively more of the Nation's poor children in 1973 were located in the large industrial states than was the case in 1969. *There is no logical basis for retaining the 1970 census count of children in poverty in the allocation formula.* (emphasis added)

The results of the more recent Bureau of the Census "Survey of Income and Education" (updated estimates of poor children in 1975) further substantiate the poverty population shift into the urban states of the Northeast and North Central regions of the country.

Indeed, specialists in HEW have noted that counts of families on AFDC have two distinct advantages over the Orshansky-based counts: (1) they are provided county-by-county on an annual basis, and (2) they incorporate geographic/cost-of-living differences in the eligibility standards set by each state. Unfortunately, the eligibility standards vary so greatly that a distribution of Title I funds based on AFDC alone would be unbalanced in one direction, while, on the other hand, the current formula goes the other way by putting too little emphasis on the AFDC counts. The formula includes two-thirds of these children whose families receive payments in excess of the poverty level for a nonfarm family of four as updated annually by the Consumer Price Index. In 1969, this figure was $3,750, but for FY 1978 it was $5,500, and is projected to be over $5,800 for FY 1979. In most states, the AFDC payment rates have not increased commensurately with the rises in the Consumer Price Index. Thus, the relative count of children from this category for the Title I formula is decreasing. As the proportionate weight of this factor in the formula decreases, the relative participation in most large industrial states decreases although the amount of decrease is cushioned by the 85 percent hold-harmless provision. Within states where the formula is applied to school districts, the aid shifts from urban school districts to central and rural school districts.

The current formula also places a limitation of 120 percent on state per pupil expenditures above the national average and a floor of 80 percent of the national per pupil expenditure for states below the national average. The 120 percent ceiling serves to reduce the allocations to some states and penalizes other states which have

made a greater contribution in their spending for elementary and secondary education. The 80-120 mechanism redistributes the funds which would otherwise go to the high expenditure states to the below national average expenditure states on the premise that high per pupil expenditures necessarily connote "wealth." Traditional thinking on Federal redistribution policy has served to support this argument. However, it perpetuates a situation whereby those states spending less than the national average per pupil expenditure still receive more per student than they are actually contributing (state and local effort combined). States such as New York, with their own compensatory education programs which result in higher per pupil expenditures than the national average, are not rewarded for increased effort.

One other aspect to the present Title I program which has caused a reduction of funds to jurisdictions with large concentrations of low-income children is the phaseout in FY 1975 of Part C. In FY 1974, $50 million was allocated under this part, and in FY 1975, $38 million was allocated. This part authorized grants to local education agencies with a concentration of Title I eligibles equal to 20 percent of the school-age population, or at least 5,000 eligibles who constitute 5 percent or more of the total enrollment. The program was eliminated and funds consolidated under Part A because of reported computational complexities, difficulties in data collection processes, and high administrative costs. However, where one of the goals of Title I is to serve areas with concentrations of low-income children, and where the consolidation has caused a dispersion of funds away from these areas, policy and practice appear incongruous.

Finally, the new method in Title I used for obtaining counts of migrant children has resulted in increased counts. In the case of one state, the dollar increase for the program in a three-year period exceeds 2,000 percent. In FY 1977, the count of children formerly eligible, but whose families have stopped migrating and are eligible for five additional years, represents approximately 29 percent of the total count of migrant children receiving payment. Nationally, the amount of funds for this program has increased more than 67 percent from FY 1974 to FY 1977. During this same period, its percentage share of Part A has increased from 4.7 percent to 6.5 percent. This has resulted in less funds for the local education agency portion of Part A.

Intrastate Distribution

Current defects in operating principles of intrastate distribution of funds must be corrected to eliminate disequalization.

Principles behind the allocation process purport to ensure that districts with the most need receive the most funds, and that the most needy students in each district receive services. Thus, only pupils in target area schools in which the concentration of poverty pupils exceeds the district average, pupils whose educational need is greater than district criteria and who attend eligible schools, are eligible for services. The allocation process bypasses the state and attempts to allocate directly to a local education agency.

As a result, some schools must demonstrate substantial concentrations of poverty youngsters before receiving funds, while a considerably smaller number of poverty youngsters is required of other districts under present procedures. The floor on districtwide averages in New York State now varies from a low of 2 percent in some rural and suburban districts to a high of 46 percent in some urban districts. This means that many disadvantaged pupils in urban areas are denied services because they attend a school building which falls below the districtwide average. On the other hand, these same pupils would be eligible for services if they were located in a low poverty district.

Although target formulas are intended to ensure that the most needy receive services, they do not provide that within a state pupils who are similarly situated according to poverty status or educational need will receive service. The current procedure of bypassing the state to the county level does not allow equalization within a state.

Formula Recommendations

1. The current formula allocates funds to the county level, with subcounty allocations carried out by state education agencies under USOE approval. The allocation should be shifted to the state level, with the use of annually updated state-by-state poverty population estimates. Such yearly updated estimates would allow for smooth transition between mid-decade census counts which begin in 1985.
2. State education agencies should allocate the funds within the state on the basis of a formula designed to carry out Congressional intent and approval by the U.S. Commissioner of Education. States should have the option of concentrating the funds where needed, and using an allocation method which best fits each state's particular problems.
3. School building allocations should include a concentration factor to assure that sufficient funds are provided to achieve significant educational results. Provision should be made for differences in the cost of services in various geographical areas (particularly urban). For example, the concentration factor

could be expressed as a percent of the direct instructional cost per pupil.

4. The present 120 percent limit on state per pupil expenditure should be eliminated.
5. The 40 percent payment rate should be dropped to 30 or 20 percent to achieve more equity between the amounts used for migrant children and the amounts used for children with similar needs in local school districts. However, other alternatives to the migrant education program might be explored, such as use of a uniform determination system among states.
6. Where state programs are similar to Title I, the Federal government should allow the programs to complement each other without major audit problems.
7. Because current Federal poverty measures are deficient, Congress must direct Federal agencies in combination to develop workable criteria and data acquisition techniques to provide more equitable treatment of poor families in densely populated jurisdictions. Such methods should include standards of need for nonfood expenses and market-basket determinations, taking into account geographic variations in the cost of living. Data collection techniques should allow annual updating to reflect changing prices and population patterns.

   Since the mid-decade, census legislation does not take effect until 1985, alternative counts of children either eligible or participating should be explored for short-run use in the Title I formula.
8. The present formula for Title I allocation does not assure that students equal in poverty status and educational need will receive services because the allocation standard is the level of concentration of target pupils in a particular local education agency. Present standards may result in insufficient funds for all schools in a district and in discrimination against urban areas. Extra weights should be assigned in the county and subcounty allocation formulas to account for heavier concentrations of target pupils in some local education agencies, and increases in Title I funding should be directed toward these local education agencies.

Difficulties on the Operational Level

The Prevalent ESEA, Title I, Project Model

Mainly because of Federal requirements, local districts use the supplementary, remedial "pull-out" model with Title I funds. In this model, the students receive a "base" program in a given subject (e.g., reading or mathematics) from the regular classroom teacher. These students also leave the regular classroom for remedial instruction. This means the educationally disadvantaged students receive two periods of instruction in the same subject area. The remedial

instruction is provided by the Title I remedial teacher or specialist, with possible assistance from paraprofessionals.

The Title I legislation related to the model states that:

1. Financial assistance is to be provided for programs or projects which contribute particularly to "meeting the special educational needs of educationally deprived children." The students most in need must benefit and not other students.
2. The ESEA, Title I, resources are to be used for the "excess costs of programs and projects which are designed to meet the special educational needs of educationally deprived children." The funds must be traceable directly to only the selected students.
3. "Federal funds made available will be used . . . as to supplement . . . non-Federal resources for the education of pupils in programs or projects . . ." This has led to Federal requirements that comparability be established among buildings before using Title I funds and to an interpretation of "supplementing" within a target school. Thus, supplementing within a school building means that a "base" program must be provided to all students in a subject area and a special period for "supplementary" instruction is added.

These three requirements have resulted in the "pull-out" model because auditors and monitors can easily determine that the intent of the law is being followed.

The implementation of this model has the following unintended consequences:

a. The educationally disadvantaged students lose the instructional services of the locally funded teacher for the time they are receiving the Title I services.
b. These students usually miss one of two things that non-Title I students receive during a "supplementary" period, such as instruction in art and music. They may also miss enrichment activities with their regular teacher in the subject in which they receive the supplementary service.
c. The non-Title I students who do not attend the supplementary sessions benefit from having a smaller class taught by their regular teacher during that time.
d. Because "supplemental" requires that the "base" program be offered in addition to the supplementary period, it is not possible to reduce class size with Federal resources during the "base period," which might be a more cost-effective and more educationally sound approach than waiting for a "supplemental" period.
e. There is often inadequate coordination of instruction between the regular classroom teacher and Title I teacher because different personnel are involved, instructional materials often differ, and there are pressures of time.

In 1974–76, the New York State Education Department conducted a sample study of compensatory reading programs in five school districts. One objective was to compare the level of achievement of participants in compensatory programs and eligible nonparticipants. The findings shed some light on another major problem associated with the prevailing "pull-out" model.

In this study, all students in grades four and five in the school district were administered pretests and posttests of reading achievement in November and May, respectively. A matched-pairs design was used in the data analysis. Program participants were matched with nonparticipants according to sex, pretest score, and amount of class variance on pretest. Results indicated that the nonparticipants had slightly higher posttest mean scores than did the students participating in supplementary programs.

These results seem to contain an implicit challenge to the effectiveness of the compensatory education programs involved. However, that challenge is based in part on an erroneous assumption characteristic of some of the literature.

The assumption is that students who do not receive the benefits of compensatory programs are simply receiving the ordinary, traditional course of study and that, therefore, they comprise a reasonable comparison group. It is generally true that nonparticipants are left behind in the regular classroom, while participants leave (i.e., are "pulled out") for the compensatory program. Information collected in the course of the study suggests that, with program participants out of the classroom, students left behind are not receiving the ordinary course of study. In fact, the nonparticipants who remain in the regular classroom are receiving special treatment to the extent that the departure of program participants results in (1) a reduced class size for those remaining, (2) the removal of students often difficult for the teacher to manage while teaching reading or another subject, and (3) other incidental changes in the nature of the class which have a positive impact on the learning environment. In addition, a feeling of superiority may be generated among those who are not singled out for remediation.

In summary, when some students in a class are pulled out for participation in a compensatory reading program and others are not, children remaining in the classroom may receive superior educational treatment in a more favorable environment. The irony is that the prevailing model, used largely because it is easier to demonstrate compliance with Federal law, may be of greater benefit to students other than the ones the compensatory programs are intended to help.

Additional difficulties with the pull-out model occur because local districts must try to coordinate the project offered with Title I funds with other categorical programs such as ESEA, Title VII, or ESAA. Since children deficient in one area are frequently deficient in others, multiple supplemental programs focus on the same disadvantaged students. Target students are not only "pulled out," but may also be pulled in several directions by multiple programs. Student disorientation and excessive loss of class time result. In many cases, coordination problems caused by "pull out" and multiple programs may result in "supplanting" rather than a supplementing the regular program. In one sense, it is impossible to avoid "supplanting" of the regular basic educational program unless the project is offered after school, in the summer, or to preschool children.

The "pull-out" model leads to educational problems even as it insures that Title I projects follow the intent of the law. New York State has examined alternative options to deal with these problems, but the alternatives seem to conflict with the current statute. The present approach must be changed to eliminate unintended, less effective consequences.

Local Designs of the ESEA, Title I, Project

The current legislation provides flexibility in regard to who in a local district develops a project proposal. The law provides for various levels of advisory councils to be involved in the process. But it is not explicit regarding the different roles of the councils. Articulation of Title I projects with local programs might be improved if building principals and building Parent Advisory Councils were more involved in preparing the district proposal for approval by the school board. Greater contributions from principals in the design of building projects could better integrate a given project with the overall instructional program and more effectively accommodate differences among schools with respect to the principal's operating style, staff strengths, and instructional materials.

Selection of Title I Students

The present legislation requires that "objective" criteria be used in selecting students with the greatest need. To meet the intent of the law and to protect against audit "exceptions," all New York State districts use standardized tests for selecting project participants. They also select only students who are below the national norm for a particular grade.

The use of these criteria has resulted in the following consequences:

1. There is a problem of availability of standardized tests for use in kindergarten and first grade. Districts have generally been reluctant to serve students in those grades because there is no "objective" method of selecting students most in need. Some school personnel believe this is not sensible on the ground that teachers can determine which students are most in need. They also believe that starting programs in the earliest grades is very important because a sound start can prevent the need for remediation later.
2. Local school personnel also express concern with the "below norm" criterion because the tests are imprecise. Guessing by an individual student on the test may result in a student being excluded from a program when his or her teachers know the child's level of need differs from what the test result showed.

Desegregation

Certain Title I regulations have a "chilling effect" on achieving a sound plan of school desegregation. Regulations on target areas, target schools, attendance areas and residence of children may make it impossible to "follow the child." They tend to deny services to children who need them and restrict planning options to effect desegregation. The "campus plan" is the only one among current options that is immune from problems caused by Title I regulations. The many other plans, including magnet schools, open and optional enrollment, paired schools, and busing are wrought with problems caused by Title I legislation.

All Title I regulations affecting the delivery of services of children who were eligible in the year prior to implementation of an approved desegregation plan should be waived for a period of three consecutive years so that the children can continue to be served even if they go from a target school to a nontarget school.

Operational Recommendations

1. Considering the range of difficulties accompanying the prevailing "pull-out model," the statute should provide flexibility to the states and local education agencies to assure that Title I resources are used to supplement state and local funds in services integral to and least disruptive of the regular school program.
2. The statute should allow the states responsibility for determining whether the building principal and Parent Advisory Council should have a specified expanded role in a project design.

3. Because of continuing difficulties in selecting children, especially in kindergarten and first grade, who would benefit most from program participation, greater flexibility on the part of local school personnel should be allowed in identifying and selecting participants.
4. In view of unintended consequences of the "pull-out" model, consideration should be given to allowing Title I funds to be used to support the entire school building instructional program under an appropriate plan when the number of potential participants in categorical programs in that building exceeds the percentage of such children for the state and for other buildings in the district.
5. Title I should allow services to "follow the child" for at least one year in mandated, desegregated situations. Thereafter, the non-Title I school involved should be eligible for ESAA funds for a determined period of time. There should be coordination between Title I and ESAA in this regard (See VI. Emergency School Assistance Act).

Evaluation of ESEA, Title I, Effectiveness

Another important group of Title I issues focuses on evaluation. These issues include the criteria for success, representativeness of samples, appropriateness of tests, methodological problems with analysis and interpretation of test results, and definition of the Federal role in evaluation. The net result of evaluation difficulties is the lack of a clear consensus regarding effectiveness of Title I.

Current evaluation requirements for testing can hinder program testing effectiveness. Mandatory pretesting and posttesting locks students into a full-year program and precludes assistance to students who need short-term help. Few appropriate tests exist for bilingual students, and math tests dependent upon certain reading skills are inappropriate measures of math achievement. There is a need for longitudinal studies and followup, since annual evaluation alone cannot determine effectiveness without considering long-term growth. In addition, more appropriate tests are required.

Public Law 93–380, which amended ESEA to require the U.S. Office of Education evaluation models for Title I, was, in part, a response to lack of compliance at the state and local levels and to legislative and regulatory ambiguities. With the completion of the first decade of ESEA, a more effective Federal/state/local partnership has been established for accomplishing national goals. Clarification in legislation and in operating rules set forth by USOE have produced a higher degree of ESEA goals. Although further clarification may be advisable, compliance with fund allocation regulations has largely been achieved. A general upgrading of administrative practices has

been accomplished at all levels, while USOE leadership and state-local experience have improved the technical capacities of professional staff in dealing with grants management and program involvement. In light of these changes, the role of the U.S. Office of Education should shift from that of "control" to working with states to promote greater state leadership and responsibility and more state flexibility in administrative practice. Where states have extensive compensatory education programs, such as New York's Chapter 241 and Title I funds, they should combine these with Federal efforts—retaining the principle of each—to present integrated programs of compensatory education.

There is a basic tension between two purposes of Title I evaluation. Is it a tool for improving local program design and performance, or a tool for providing the Federal government with information on Title I effectiveness? The Federal evaluation systems designed to date cannot provide the type of information the Federal government desires.

The following recommendations are directed toward more systematic and integrated programs, and more informative public reports on compensatory education.

Recommendations

1. Federal emphasis should be on building technical competence in state education agency and local education agency evaluation capacities for their own programs and developing local and state evaluation studies to be used in policymaking.[1]
2. Effective enforcement of regulations should be based on comprehensive and detailed SEA examination of an LEA's annual program plan and examination of the district's evaluation procedure in the field. The SEA would maintain contract compliance by written reports, formal and informal visits, and onsite visits.
3. Meaningful evaluation requires a clear statement of goals and eligibility criteria, support and accountability for national local project management and research efforts to raise the level of causal knowledge about educational outcomes. Present Federal legislation and regulations should be further simplified and clarified. Federal guidelines should broadly address important issues of program goals, project management, and comparability without getting into details of project activities. Such issues are common in the management of most Federal programs and should be addressed jointly.[1]
4. In the field of research and development, the low knowledge base relating means to ends in compensatory education is a

[1] See Section V, ESEA, Title IV, our proposal for a SEA/LEA Management Capacity Building Program.

continuing area of concern. The lack of valid measures of student achievement raises questions about program effectiveness in terms of remediation. Standardized, norm-referenced tests are inadequate for research and program evaluation. Since both research and systematic learning are hampered by the lack of appropriate measurement, New York State supports Federal funding for SEA devleopment of criterion-referenced measures of educational achievement, as well as development of systems for collecting, analyzing, and reporting data based on such measures. Better measurements will make possible research into the relationship between project activities and student outcomes. We recommend Federal support of basic SEA and other public agency research into the relative effectiveness of alternative educational approaches in raising student achievement. Renewable grants for program-related research should be available.

5. State agencies should receive Federal assistance to support research and development of improved management systems at both project and program levels. This is crucial since the development of better measures, systems for managing data, and improved educational practices will be meaningless unless implemented in the districts.[1]

Expansion of the State Role

The respective roles of the state and Federal governments in the Title I program need to be reexamined. The Federal role has been to identify major educational problems to which the states and local education agencies had not responded adequately. In providing funds and direction, Federal action has shaped local and state action. Much of the change has been positive.

State Administrative Funds

In Title I program development, the state education agency was thought of originally as a "silent partner." As the Federal government sought to make control and guidance of Title I funds and programs tighter, however, this led to an increasing and natural reliance on state education agencies to be more of a "general partner" in providing effective educational services to disadvantaged children.

The vital role of state education agencies in the effective and efficient administration of Title I has been indicated by the National Institute of Education in its recent report, "Administration of Compensatory Education." The report notes that:

> . . . the greater the efforts a State made to clarify, record, and disseminate both Federal and state regulations, the less likely its districts were to experience compliance problems. The case studies showed that States with adequate staff to explain to dis-

tricts what they can and cannot do under the regulations are less likely to have district programs out of compliance."

Despite the importance of state technical assistance to LEA's, the Federal determination of a state's administrative funds takes into account only the state's Title I program grant. It does not consider the number of school districts in each state.

State administrative responsibilities have increased over the years, but the Title I state administration set aside has remained at 1 percent. State Title I administrators have been called upon to enforce more and more regulations, implement new and more detailed Title I evaluation requirements, monitor districts for comparability determinations, enforce additional parent advisory council participation in Title I programs, provide technical assistance and leadership to support demands on LEA's, and respond to an ever-increasing demand for Title I data and information in response to federally mandated studies of Title I.

In addition, low-rent housing funds provided under the Impact Aid program are earmarked for use for ESEA, Title I, purposes only. Unlike the remaining portion of the Impact Aid program (with the exception of the handicapped), which can be used by LEA's for general educational purposes, low-rent housing funds can be used by the LEA only upon approval of an application to the SEA. No administrative funds are provided to SEA's for this purpose.

Indirect Costs

A problem appears to be developing not only in ESEA I but also in both elementary and secondary and postsecondary programs having a substantial amount of indirect, or overhead, costs which state and local agencies and institutions have been absorbing in the administration of Federal programs. Such costs are necessary to the efficient administration of programs, and yet are not covered in Federal funds available for administration as are direct costs. Indirect costs are incurred for the joint or common benefit of a grant or contract and other activities carried on by the state or locality, as, for example, the operation and maintenance of buildings or a payroll unit.

Federal Management Circular 74–4 (formerly OMB Circular A–87) makes it possible for agencies and institutions to draw on the Federal funds received for administration the amount necessary to cover indirect costs. With increasing fiscal pressures, a number of agencies will be forced to take this option.

Indirect costs are normally charged to Federal awards through an indirect cost rate. The rate is the percentage relationship of indirect

costs to direct costs, such as salaries and fringe benefits. In the New York State Education Department, indirect costs represent approximately 36 percent of the amount necessary to maintain a permanent employee on a regular basis. Deducting the indirect costs from the Federal funds available to the State Education Department for administration would mean, for example, a reduction in such FY 1978 funds of 22 percent in ESEA I, 32 percent in ESEA IV, and 20 percent in the adult education program.

Local districts and regional centers are affected as well. For example, under the provisions of Section 403, Title IV of the Civil Rights Act of 1964 and of ESAA, funds to cover indirect costs of districts are not provided. The state's Boards of Cooperative Educational Services (BOCES), which are recipients of ESEA, IV–C, funds, are not permitted to charge indirect costs on Federal grants. As a result, they must absorb from 3 to 6½ percent of local funding for carrying out Federal programs.

State and local agencies and institutions should not have to continue to absorb such costs, particularly in light of increasing Congressional fervor for state-Federal and local-Federal matching requirements on administrative funds.

Recommendations for State Administration

1. States having compensatory education programs supported by state funds (there are 12 such states) should be allowed discretionary authority to unify the administration of state and Federal compensatory education programs. The Secretary of HEW should be allowed to make demonstration grants to SEA's for the joint operation and coordination of Title I and state compensatory education program practices which have proven to be effective in delivering services to eligible pupils.
2. In recognition of increased responsibilities placed on the states, the provisions for state administration should be changed to a sum not less than 1.5 percent of the state's basic grant, or $300,000, whichever is greater. With these funds, state education agencies will be in a position to fulfill their partnership role in meeting the needs of disadvantaged children.
3. The greater capacity of the states in the Federal/state/local partnership suggests a readjustment of the state and Federal role. An expansion of the state role in planning, regulating, and evaluating programs funded through ESEA, Title I, is indicated. States possessing the skills and capabilities to assure the expenditure of Title I funds in accordance with the intent of the law should be enabled to do so without the hindrance of detailed Federal prescriptions.

Title I legislation should be modified to allow SEA's the option of administering Title I as a program based on a single state application of assurances with a plan housed in the SEA which serves its own management purposes but which would be reviewed by a USOE field team. The plan could be a comprehensive five-year plan with annual updates based upon modifying circumstances within the state such as demographic changes and annual evaluation of the compensatory education program.

The same concept would be substituted for the current annual project application from LEA's. The LEA's would submit appropriate assurances and have plans on file in the district which would be reviewed by SEA staff. A procedure of this nature would enhance the longitudinal instructional, curriculum, evaluation, development capabilities of LEA's and improve instruction of children.

Recommendations on State and Federal Responsibilities

The following recommendations are made on the respective state and Federal responsibilities in carrying out Title I.

State Responsibilities

State responsibilities should be expanded so as to enable each state to:

1. Distribute Title I funds within the state in accordance with state agreement which assures the Federal intent is attained while coordinating Title I programs and projects with state compensatory education programs as well as basic educational programs. Appropriate economic or educational indexes would be established by each state for the distribution of Title I funds. State responsibility would include a statewide assessment of needs, planning, administration, and evaluation of programs.
2. Specify what models of local educational programs or projects are consistent with the intent of Title I. Specific models should be developed by state education agencies in consultation with local education agencies.
3. Conduct evaluations of local educational projects. These evaluations should be used to determine the overall impact of Title I funds on students, to conduct state education agency policy analysis studies to improve effectiveness of local projects, and to aid Congress and the President in determining the effectiveness of ESEA, Title I.
4. Secure the following assurances from local education agencies in place of present review and approval processes:
   a) Use of money for projects which meet the characteristics that the state specifies as being acceptable;
   b) Maintenance of separate accounts for Title I funds;

c) Agreement to cooperate with state sample evaluations which will be unannounced;

d) Maintenance of a plan in their district that can be reviewed by state or Federal personnel; and

e) Implementation of an evaluation system for their own instructional management purposes which evaluates their total educational program, including Title I projects.

5. Provide technical assistance to local education agencies and conduct statewide sample evaluations. This requirement would foster an open relationship between local education agency personnel and the technical assistance staff.
6. Disseminate promising Title I practices. There should be a specific set-aside of funds for Title I program improvement. The state education agencies would earmark funds to conduct or support dissemination/demonstration projects at the local, state, and regional levels which have been identified as appropriate to serve as models for other districts. This type of program would enable the state education agency to exert greater leadership and service to LEA's.
7. Request USOE waivers of certain restrictions imposed by Federal regulations. Because of differences among states, Federal regulations sometimes prevent administrative procedures which would ultimately result in more effective delivery of services to children. Authorization for the U.S. Commissioner to grant regulatory waivers should allow for a flexible timeframe. States would be required to report annually on the continuing effect of the waiver and the desirability of its continuation or termination.
8. Assure the coordination of Federal funds with state-funded compensatory education programs, and that the use of such Federal funds does not hinder state finance equalization plans.
9. Develop model parent education programs in conjunction with Title I programs.
10. Set aside a percentage of the state grant to achieve special and unexpected program activities and studies in compensatory education of state and national significance. An example might be a Title I program to follow a child who has been moved to a non-Title I school because of mandatory desegregation. Coordination with ESAA funds should be allowed.

Federal Responsibilities

Federal responsibilities should be to:

1. Distribute funds to states according to a revised formula which incorporates the factors discussed in this document;
2. Review and approve the characteristics and guidelines which the states develop. Approval must be based on an assessment of whether a state has suggested reasonable education ap-

proaches for projects which serve objectives of the program, while supplementing state and local funds in services integral to the regular school program;

3. Monitor and audit state and local operations and plans. The criteria should be specified and available to all parties;
4. Evaluate methodologies and measurement devices used by states and local education agencies in order to make recommendations; and
5. Conduct sample evaluations for reporting to Congress and the President.

Parent Involvement

Parent Education Program

There is widespread concern that after 12 years of effort in Title I and similar programs large numbers of children continue to perform at unacceptably low levels. At the same time, a growing number of parents and educators suggest that pupil performance in school may be influenced in a positive way by involving parents with their children in the school experience. When parents understand the developmental needs of the child, value education, are supportive of the work done in school, and participate actively in the education of their children, a positive impact can occur in a number of areas. The areas include attitudinal changes, achievement gains, sustaining such gains over a longer period, and reducing the dropout rate.

The desired impact may occur in compensatory education programs, such as ESEA I, if more effort is directed to strengthening the capacity of parents to help their children and to increasing their supportive role in the child's school experience. A stronger school-child-parent partnership results from recognizing parents' contributions to promoting values, learning incentives, and reinforcement. Schools help at the same time by imparting to the parents child development awareness and skills which are desirable but are often ignored or lost in the transition to adulthood.

Recommendation for a Parent Education Program

To encourage a sound partnership, there should be a Federal program to support parent education as an integral part of Title I or in collaboration with the Adult Education Act. In the first years, the Congress should provide a new funding authorization within Title I for state education agencies to make grants to eligible applicants to develop needed programs. A validation-diffusion system might be appropriate later. Under this system, SEA's would carry out the se-

quence of validation, demonstration, and diffusion of promising programs. Such effort would have state and national significance.

School districts would be eligible applicants, cooperating with community agencies, colleges, and universities where desirable.

This proposal is timely, since many schools can now devote resources, staff, and space to parent education programs because of declining pupil enrollments.

Another important consideration is the involvement of parents in program development. Most parents, including those with limited education, know the problems faced in raising children and can share their experiences. They also can identify problems which require expert help. It is at that point that education in the formal sense may have the greatest impact.

Alienation from the schools is also an important issue. Many parents who are interested in their children's well-being feel the school does not really serve parent needs and, therefore, does not serve the needs of their children. An effort must be made to show that parents can have an impact on the school and that the school welcomes them as partners. Another problem is lack of time and/or money. Working parents usually cannot afford to take time off from work, and parents on welfare may have no place to leave their preschool children. Coordination with CETA and welfare programs is necessary. Possibilities include part-time jobs for Title I parents who participate in a parent program. Parent education programs should also develop strong links with other service agencies in the community with which parents are or could become involved.

Finally, parent advisory councils (PAC's) should be integrally related to the parent education program. PAC's could be involved in planning programs of parent training such as how to identify learning problems, how to help children with their homework, how to talk with children, good discipline, and other topics.

Parent Advisory Councils

PAC's are one of the elements of Title I legislation which contribute most to the quality of the compensatory education program. The major problem is, however, that the Councils lack the program and financial assistance to provide parents with the skills, knowledge, and experiences to make parent involvement most effective and efficient for the educational benefit of the children and the school system. We believe this can be remedied through a parent education program.

Other problems include the following:

—Current Title I PAC regulations discourage inputs from other segments of the community, such as business, industry, and fraternal and social organizations, which are in a position to provide satellite and related services.

—The proliferation and differences of statutory language in various federally aided programs, each separate and self-contained, have resulted in parent groups working in competition with one another, as well as competing with other parent groups having a locally determined, ad hoc, advisory role.

—In many instances, the diverse groups are competing for the same resources of time, money, services, and personnel, and the same children, such as the handicapped and non-English-speaking.

Recommendation on Parent Advisory Councils

Consideration should be given to requiring a single local advisory committee on federally aided programs. Such a committee could be organized into subcommittees for such specific areas as compensatory education, vocational education, handicapped, etc. In addition, in cases where there are small numbers of Title I teachers and pupils, school building PAC's could be consolidated into a district-wide PAC with representation from each Title I school.

Economic vs. Educational Achievement Data in the Allocation of Title I Funds

ESEA was intended mainly to assist the nation in achieving "The Great Society." A second intent of the Act was a corollary of the first; that is, "With the equalization of educational opportunity, reductions in educational deprivation will tend to reduce or eliminate poverty." It is widely believed that children who suffer from economic deprivation are also educationally deprived. This generalization applies more to urban and urban fringe school districts than to rural and many suburban school districts. A study in Pennsylvania showed that the correlation of poverty and educational disadvantage of Title I project participants in urban school districts was .93, whereas the correlation in rural districts was .22. Title I fund allocations have been based on measures of poverty for this reason, and because poverty data are readily available.

Controversy has arisen in recent years over the effect of using academic achievement data as the basis for allocating Title I funds nationally. New York State strongly opposes the use of such data as

the sole criterion in a Federal allocation formula for Title I for a number of reasons.

A recent study completed by the National Institute of Education (NIE) entitled, "Using Achievement Test Scores to Allocate Title I Funds," concludes that there is no single integrated file of achievement test results at the national level that can be used to allocate Title I funds to every state and school district. The NIE estimated that it might cost as much as $53 million to design and implement such a test over a three-year period.

The National Assessment of Educational Progress (NAEP), for example, is not designed to produce state-by-state or district-by-district estimates of the number of low achievers. A recent study by William Greenbaum and Associates at Harvard University under contract with the Carnegie Corporation states that the NAEP has "failed to obtain meaningful data on the strengths and weaknesses of American education." To stipulate the use of such data would result in unreliable and invalid conclusions and decisions affecting the distribution of Federal aid.

The NIE report further noted that using state level data for a national distribution would also be inaccurate since 1) some states do not administer a testing program of any kind; and 2) existing state programs vary considerably in content, design, and application.

In addition, the total number of students eligible under Title I would increase if national achievement date were used instead of economic data while the Title I program continues to be underfunded for the current number of eligible students. The reason that even though children in low socioeconomic urban and urban fringe school districts tend to score ten points below the national average in the National Assessment, there are also significant numbers of underachievers in suburban and rural school districts. In New York State, for example, we have approximately 728,570 students eligible under Title I, or 22 percent of the total public elementary and secondary enrollent in the State. By contrast, the total number of eligible children based on low achievement (percent of enrollment below minimum competence in reading at the 6th grade level) might be 1,046,991, or 31 percent of the total state enrollment in public elementary and secondary schools. The reason for the higher number is that there are more children who are underachievers than there are children in poverty as defined by the present Title I formula.

The NIE study noted that for New York State, in comparing its proportion of the estimated national total number of achievement eligibles with its current proportion of 1970 census poor children

counted in the formula, the state would decrease by 16 percent. Using New York State's share of 1975 estimates of poverty eligibles for comparison, the state's proportion would decrease by 24 percent. In other words, New York State has proportionately less achievement eligibles than poverty eligibles as a percent of the national totals. Hence, if Title I funds were allocated nationally on the basis of achievement levels, New York State might expect to receive a smaller share that it is currently receiving. Sixteen other states studied by NIE might also receive proportionately less.

If funds were allocated using achievement data with the present level of funding, there would be a significant shift away from urban areas in favor of the suburban areas. This is illustrated in a study we carried out in several selected urban counties in upstate New York. Onondaga (Syracuse), Monroe (Rochester), and Albany counties

TABLE V

DISTRIBUTION OF ALBANY COUNTY ENROLLMENTS SHOWING PERCENT OF THE ENROLLMENT BELOW MINIMUM COMPETENCY LEVELS IN SIXTH GRADE READING AS OF FALL 1975

(1)	(2)	(3)	(4)	(5)
			Eligible Students	
Albany County LEA	LEA Enrollment (Fall 1975)	% Enroll. Below Min. Competency[1] (Fall 1975)	PEP Eligibles (Col. 2 × 3)	ESEA I Poverty Eligibles
Albany	10,335	40	4,134	4,187
Berne-Knox	1,479	26	385	96
Bethlehem	4,400	11	484	220
Cohoes	2,737	34	931	436
Green Island	461	33	152	43
Guilderland	5,579	15	837	174
Maplewood	182	20	36	10
N. Colonie	6,196	13	805	447
Ravena-Coeymans	3,093	21	650	129
S. Colonie	8,307	17	1,412	298
Voorheesville	1,943	14	272	63
Watervliet	1,472	32	471	243
TOTAL	46,184	22	10,569	6,346

[1] Menands 15 percent *not* included.

TABLE VI

A COMPARISON OF ESEA, TITLE I, GRANTS FOR FY 1977–78 WITH THOSE BASED ON LOW EDUCATIONAL ACHIEVEMENT DATA OF FALL 1975 HOLDING THE COUNTY GRANT CONSTANT

(1)	(2)	(3)	(4)	(5)
Albany County LEA	Existing ESEA I Grant FY 1977–78	Col. 4 from Table II × Per Pupil Grant of $174.11	Difference Col. 2 Minus Col. 3	% Change Col. 2 to Col. 3
Albany	$1,214,146	$ 719,770.74	$−494,375.26	−40.7
Berne-Knox	27,838	67,032.35	39,194.35	140.7
Bethlehem	63,796	84,269.24	20,473.24	32.0
Cohoes	126,431	162,096.41	35,665.41	28.2
Green Island	12,469	26,464.72	13,995.72	112.2
Guilderland	50,457	145,730.07	95,273.07	188.8
Maplewood	2,900	6,267.96	3,367.96	116.1
N. Colonie	129,621	140,158.55	10,537.55	8.1
Ravena-Coeymans	37,407	113,171.50	75,764.50	202.5
S. Colonie	86,414	245,843.32	159,429.32	184.4
Voorheesville	18,269	47,357.92	29,088.92	159.2
Watervliet	70,465	92,005.81	11,540.81	16.3
TOTAL	$1,840,213	$1,840,168.59	−$44.41[1]	

[1] Due to rounding.

were analyzed with respect to the flow of Title I funds if educational achievement data were used. The total dollar amount was held constant at the most recent Title I allotment amount. Two distributions were carried out among the school districts—one based on ESEA I poverty eligibles, and the other on our New York State Pupil Evaluation Program (PEP) eligibles (percent of enrollment below minimum competence in reading at 6th grade). In all three counties, there was a shift of funds out of the major urban school districts into suburban districts. Tables V and VI illustrate the methodology used and results obtained in Albany County.

It can be seen from Table VI that the City of Albany would lose 40.7 percent of its current Title I allotment if funds were distributed to school districts on the basis of low achievement data. By contrast, other school districts would have a substantial gain in funds, such as

Guilderland (189 percent), Voorheesville (159 percent), and South Colonie (184 percent). In addition, it is interesting to note that one school district, Menands (not shown), would be eligible to receive funds on the basis of low achievement data, but not under Title I as presently determined. It can be concluded that with a constant dollar amount, and an increase in eligible children favoring the suburban school districts, urban areas would tend to lose both in absolute dollars and in their percentage share of the funds if funds were allocated solely on the basis of low achievement data.

V. ESEA, Title IV

Consolidation of seven categorical programs under Title IV of the Elementary and Secondary Education Act has solved a variety of problems. Nevertheless, it has created several other problems deserving legislative attention and indicating opportunities for expansion of the Act to increase the effectiveness of Federal legislation in general.

The material that follows describes some of the problems resulting from current legislation and regulations and makes recommendations for solving these problems. It also indicates some general difficulties with respect to the effective management of Federal programs at the state and local level and suggests a new program part for Title IV to improve state and local program management and build the capability for the evaluation of Federal programs.

These recommendations grow out of New York State's experience with Title IV. Our experience has included a strong, helpful State Advisory Council that has had a policy orientation toward its work. This orientation has led to the development of several policy studies which have provided insight into the functioning of the current law and have created the basis for several of the recommendations. In addition, the State Education Department staff's experiences with the operation of the program have led to a number of recommendations which focus on proposed changes in the legislation and the administration of such programs.

Part B

Within Part B of the legislation, two areas are creating problems with respect to the administration of the program. The first problem stems from the way in which maintenance of effort for Title IV-B

was specified in the Education Amendments of 1976. The second problem emanates from the U.S. Office of Education regulation that funds earned by a local education agency because of the presence of children whose education imposes a higher than average cost be spent on those children.

With respect to the maintenance-of-effort problem, New York has found that the present requirement for local education agencies to provide local expenditure data only for expenditures eligible under Title IV-B is terribly burdensome for districts. This mode of presentation does not coincide with school accounting practices. As a result, districts must restructure their financial data. This imposes a difficult, time-consuming task upon New York State districts and makes little sense in light of the fact that maintenance of effort is a state responsibility, since it is based either on the aggregate state expenditure or on average per pupil expenditures in the state.

The second problem relates to Section 134a.3 of the Federal regulations governing Part B. This section requires that local education agencies receiving a portion of their Part B funds because of the presence of children whose education imposes a higher than average cost per child "shall use such funds. . .to provide services, materials and equipment. . .(1) in schools attended by such children. . .and (2) for the benefit of such children." This regulation creates accounting difficulties for local districts in requiring the expenditure of such funds to be traceable directly to the children. It appears that the regulation has overstepped the legislation and the intent of Congress to allow local education agencies discretion in the expenditure of IV-B Funds.

New York State is also concerned about the findings of its evaluation studies which indicate a very small financial impact for the Part B program. One study indicated that only 15 percent of the sample districts in the State experienced an increase of 2 percent or more in expenditures related to IV-B purposes as a result of the 1975–76 IV-B allocations. A second study for FY 1977 allocations indicated that IV-B allocations in that year to most districts accounted for less than 4 percent of the districts' total expenditures in areas corresponding to IV-B purposes. While Part B funds are important to local education agencies, their impact on districts at present appropriation levels is limited. With many districts receiving a total allocation of $8,000 or less, for example, several purposes of the legislation cannot be accomplished. Moreover, the administrative burdens associated with the program plan, evaluation, and other paperwork requirements are disproportionate to the small amount of funds received.

Part B Recommendations

1. The legislation should be changed to permit maintenance of effort to be calculated by the State based on the data available in the State Education Department from the regular financial report submitted by local educational agencies. The State would still be held accountable for maintenance of effort, but districts would be relieved of the difficult task of breaking out expenditures differently from what is required by standard school accounting practices in New York State.
2. The above-mentioned Federal regulation specifying that expenditures of funds be traceable directly to higher than average cost children should be deleted to allow the local education agency discretion in identifying the pupils to be served. If this change in the regulation is not feasible, the legislation should be amended accordingly.
3. Title IV-B appropriations should be substantially increased in order to effect a greater impact on district programs related to Part B purposes.

Part C: Innovation

The section of New York State's Title IV, Part C program directed toward the development and implementation of innovative programs in schools throughout the State is being conducted under a strategy labeled "transferring success." This strategy, which is supported by the State's Advisory Council and advocated by program officers in the Office of Education, seeks to bring about change in school districts through various grants. Under this strategy:

1. Developer grants are provided to districts when it is found that there are no or too few existing programs to meet critical education needs. These grants permit development of a program which, when proven capable of meeting an unmet need, can be demonstrated to other districts and replicated by them.
2. Validation grants are provided when a district has developed an educational program directed toward an unmet need also common to other districts in the State, but has not had the opportunity to gather sufficient data to prove educational effectiveness and reasonableness of cost. The district is given funds to gather these data and is subsequently visited by an outside team to validate the program's educational and cost effectiveness.
3. Demonstrator grants are provided to districts with validated programs to enable them to demonstrate these programs to districts in New York State with similar educational needs and to help those interested to begin the programs.
4. Replication grants are provided to districts that wish to replicate a demonstration program. These grants provide for the

start-up costs needed to undertake proven programs in other districts.

The transferring success strategy is aimed at using IV-C funds in such a way that school districts will replace costly and ineffective programs with cost-controlled, more effective ones.

While there is wide support for using Title IV-C innovation funds in this manner, New York State has found that current ESEA, Title IV, legislation and regulations impede effective implementation.

One obstacle is the requirement for a single application for Parts B and C, which also means a single application date must be observed. When Titles IV-C and IV-B were established through the consolidation of a number of other programs, application forms were also consolidated. Nevertheless, differences in the purpose and nature of Parts B and C were ignored in coming to this decision. Single time cycle imposed on two dissimilar programs works to the disadvantage of one or the other, or both programs. With respect to Part C, which is a competitive grant program, it is logical to have the proposal submission date late in the school year to afford districts time to prepare the best possible application. Moreover, it is most important to delay the submission for continuation of projects until later in the year to have some indication of how districts performed under their first year's grant. For Title IV-B, which is a formula program allocating funds directly to local educational agencies, it makes much more sense to have applications submitted as early as possible so that funds may be received in the current school year. This would allow districts to make their purchases and obtain materials prior to the end of the year.

Other difficulties occur within Part C from the observance of a single application date for all applications submitted for Part C funding. The single date precludes acting to get projects underway at the time a priority is identified. For example, the Board of Regents recently launched a "Competency-Based Education" program which generated considerable reaction from the field. It would have been desirable to have offered Title IV-C planning (developer) grants to districts last year so they could begin planning and operating this past fall. The single filing and annual application legislation prevented that. It also creates a situation in which districts ready to adopt a demonstrator program shortly before or just after the single submission date must wait a full year to submit an application which, if approved, will not begin for several more months. This scheduling problem may dampen the enthusiasm of potential adopters and points to the need to have competition for Title IV-C funds several times a year.

The administration of the Title IV-C program using the various grant types has been hampered by the prohibition against supplementing project budgets. It has been found that in the normal course of administering the program, project budgets need to be amended and in some cases supplemented to accommodate unanticipated changes in program implementation at the local level.

Another problem for state administration of the IV-C program stems from an Office of Education directive that annual competition occur among all applicants, including those who had been previously funded. It does not seem reasonable that those having developer grants should have to compete against all other applicants each year. The current situation places considerable stress upon districts operating developer grants without knowing for a number of months each spring whether they may continue another year. Further, most districts need at least three years of funding if the program is to benefit the target population. Therefore, the state ought to be able to insure the continuation of these grants unless deficiencies are identified. The Office of Education has indicated that this arrangement is possible provided applicants submit fully developed applications for a multiyear period.

A final problem area in administration of Part C concerns the percentage of funds allowed for administration under current legislation. The former categorical provisions of NDEA, Title III (now consolidated into ESEA, Title IV-B) provided an effective rate for state administration of approximately 7½ percent of local assistance funds. ESEA, Title III (now incorporated in Title IV-C) provided a statutory rate for state administration of 7½ percent. In the consolidation of programs in 1974, all state administrative funding was changed to 5 percent, which caused a reduction of funds to many states. In a comparison of estimated state administrative funds under Title IV, Parts B and C, for FY 1977 with total state administrative funds available in FY 1974 under corresponding categorical programs, the U.S. Office of Education noted that 28 states (including all of the most populous) experienced an absolute reduction in such funds. The remainder experienced an increase.

Because many more grants are offered under the "Transferring Success" program due to their lower budget levels, the increasing number of IV-C districts also increases the need for states to increase the monitoring and audits of projects. Many additional days must also be given to state technical assistance to local education agencies.

The Title IV-C office is also faced with administrative problems created by inflation and rising salary schedules to meet the cost of

living. Adequate administrative funds to meet the growing need for additional staff are lacking. Further drains upon the limited administrative funds occur because states must provide for an Advisory Council with broader responsibility than the former Title III, Advisory Council. Under Title IV, Part C, with regard to programs for innovation, states are required to provide technical assistance to agencies needing help in developing applications. Evaluation responsibilities of the State Advisory Council have increased administrative costs to provide the human and material resources to accomplish this mandate.

Part C Recommendations

1. Separate application forms should be allowed for Part B and Part C of ESEA, Title IV.
2. Restrictions on the number and choice of dates to file Title IV-C applications should be eliminated.
3. Legislation should permit Part C projects to be amended or supplemented as deemed necessary by the Title IV-C office at the state level.
4. Regulations should allow developer grant applicants first-time competition only for operation up to three years, provided applicants stay within reasonable limits of the program priority criteria established in the first year of funding, and satisfactory evidence is submitted annually on progress made toward achieving intended objectives in each of the three years of developer operation.
5. The law should be amended to provide the former 7½ percent levels for state administration.

SEA/LEA Management Capacity Building Program

New York State's experience in managing Title IV and other Federal education programs has demonstrated that much of the potential effectiveness of these programs is lost through inability of states and localities to integrate various functions common to all programs. This lack of integration precludes determining the overall impact of Federal resources, thereby blocking development of Federal policy based on accurate information concerning the degree to which various educational needs have been met. We believe Title IV affords a unique opportunity to alleviate some of the problems discussed below and to achieve more effective management of Federal programs at the state and local levels.

The following components of overall program management are scattered throughout a number of categorical programs: evaluation, demonstration and dissemination, technical assistance, monitoring,

test development and testing, management inservice training, and improvement of educational data information systems. At present, there is no mechanism for the effective integration of these functions into a single management capacity system applying to all Federal categorical programs. In addition, current Federal procedures for conducting some of these functions under various categorical programs and for supporting other functions are largely inadequate, both in terms of integrating programs and developing data for policymaking.

Federal statutes require and fund evaluations of Federal education programs. Most Federal statutes focus on local evaluations of the specific projects funded under the statute. These evaluations are generally limited, however, because the projects provide only part of the service offered to students in a particular subject, such as reading or mathematics. The evaluations generally do not provide appropriate comparisons or longitudinal information about students participating in those projects compared with other students. Thus, although substantial Federal funds have been used for evaluation, the impact of the information on policy review has been disappointing.

A state-developed, comprehensive evaluation of learner outcomes could provide effectively for the assessment of the contributions of locally supported efforts and federally supported efforts through categorical programs. We recommend consolidation of funds currently provided under several Federal education titles for evaluation into a statewide evaluation program within Title IV-C, to be an integral component of an SEA/LEA management capacity building program as recommended below. The program would be phased-in over three years, permitting the states an opportunity to develop a sound evaluation system to be approved by the Secretary of Health, Education and Welfare. The program would provide first-year grants from the Federal government to the state education agencies to plan and develop the statewide evaluation system. This planning could be done by states separately or with other states working with the U.S. Office of Education. During the first and second years, evaluation funds currently provided through Federal programs would continue to flow to local education agencies. During the second year of the program, evaluation funds would continue to flow to local education agencies, but would be used in accordance with the statewide evaluation plan. During the third program year, evaluation funds previously flowing to local education agencies would be consolidated in one appropriation to the state education agency for the implementation of the overall statewide evaluation plan.

With the exception of planning grants to establish the statewide evaluation plans, this proposal would require no additional Federal funds. Funds currently provided under several titles for evaluation would be blended into a comprehensive evaluation plan. The statewide evaluation system would yield data on specific projects funded through Federal titles and would provide more comprehensive evaluation information for school building, school district, and statewide results.

A new authorization for statewide test development and testing should also be included. A consolidated testing and evaluation program would provide for longitudinal and cooperative studies and enable general assessment of the effectiveness of Federal programs. This consolidated testing system would also help overcome the loss of monies specifically designated to states for testing in ESEA III when the testing component of ESEA III was consolidated into Title IV-B. A consolidated, comprehensive testing and evaluation system clearly supports the concern in New York State and elsewhere that adequate evaluation and assessment techniques should be available to measure student achievement of minimum competency levels.

While the development of a comprehensive evaluation system can overcome one impediment to increased effectiveness of categorical programs, problems also exist with respect to the planning and implementation of Federal programs; monitoring of program activities; validation, demonstration and diffusion of promising educational programs and practices; and management inservice training. These areas can be positively affected by state provision of technical assistance to LEA's. In recent years, the Federal government has come to rely increasingly on the states to carry out Federal program mandates and to assist localities to use funds effectively. A recent Federal study has shown that where technical assistance is provided by the state, more compliance and extensive program implementation are realized. The amount of funds available to the state to provide technical assistance is not commensurate with the need. Therefore, as part of a management capacity building program discussed below, funds should be made available to improve program management capabilities at the state and local levels.

A final problem is the present status of educational information systems. There has been an increasing demand for educational information from the state and Federal levels. While some of this demand for information is unnecessary, it is also true that effective management of programs at the Federal and state levels requires information upon which to base decisions. The burden of providing

this information falls upon the states and localities, and the present information systems available in the states are inadequate.

The Federal government has long recognized that Federal statistical programs will be upgraded in direct proportion to the improvement of such programs at the state and local levels. That concept is embodied in the Federal-State Cooperative Systems of Data Collection. Such cooperative systems, which often involve direct financial assistance to the states, are operative in the Department of Labor, the Bureau of the Census, the Law Enforcement Assistance Administration, and the Department of Agriculture; other examples include the Cooperative Health Statistics System and the Medical Management Information System.

In the area of education, assistance activities have had an uneven history. A number of national attempts were made in the first half of the century to improve information about the condition of education in the United States. Those efforts were directed primarily at achieving uniformity in the definition of educational terms and the reporting of educational statistics, culminating in what is now known as the Handbook Program of the National Center for Education Statistics.

It was not until 1958 that Federal assistance activities to improve educational information took new direction. In that year, the National Defense Education Act was passed by Congress. Section 1009 of Title X of that Act was designed to assist "the states to improve and strengthen the adequacy and reliability of educational statistics provided by state and local reports. . . ." It provided to each state up to $50,000 of Federal money on a matching basis. In the first year, approximately one-half of the states took advantage of the available funds; five years later, 49 of the 50 states did so. As a result of Title X, the ability to generate quality educational statistics for both state and Federal use improved substantially.

In 1965, however, the Elementary and Secondary Education Act provided funds under Title V for the general improvement of state education agencies, but included no specific appropriations for educational statistics. The statistics programs in many states lost out as funds went to other needs.

One way to improve the reliability of educational statistics at both the state and Federal levels, and simultaneously reduce the data burden, is to assure that streamlined information systems exist in state education agencies. New York State has had considerable success in this area. This success was described in testimony presented in June 1977 to the House Subcommittee on Elementary, Secondary and Vocational Education.

Other states also exhibit an interest in improving the capacity of their educational data systems, but they have committed all the resources they can to this effort. A recent survey of state education agencies showed that in almost one-third of the states, Federal dollars represent less than 20 percent of total expenditures for these activities. In over half the states, the Federal contribution is less than 40 percent.

If states are to make significant improvements in their information systems capability—improvements which will ultimately benefit the Federal statistical system—they must have help. The National Center for Education Statistics has been mandated in P.L. 93–380 to "assist state and local education agencies in improving and automating their statistical and data collection activities." We recommend that additional support for this mandate be provided immediately.

Recommendation

All efforts related to categorical programs management at the state and local levels should be brought together into a single SEA/LEA management capacity building program to be funded as a separate program within Title IV-C. Such a program would build upon the activities to strengthen state education departments under the former ESEA, Title V, now consolidated within Title IV-C. The effect would be to integrate the overall planning and management of all categorical programs and produce data relevant to state and Federal policymaking needs.

VI. EMERGENCY SCHOOL ASSISTANCE ACT

A portion of ESAA expires in 1978, and the rest in 1979. We suggest a one-year extension of Section 704(c) and (d) and a reconsideration of the entire ESAA package expiring in 1979 along with the total ESEA package.

Recommendations

1. Some ESAA funds, for districts preparing to desegregate, should be targeted on plan development. Comprehensive and workable plans are the key to successful desegregation efforts. All relevant sectors of the community should contribute to the plan. Adequate planning requires substantial commitments of time and funds by local districts. Federal funding should be a planning incentive.

2. ESAA has a state allotment program under which each state is allotted a total amount, and USOE suballocates within the state on the basis of approved grant applications. The guidelines established for implementation of ESAA provide for state agency review and require that the SEA be given 15 calendar days to make recommendations to the applicant and to submit comments to the USOE regional office. LEA's submit to the SEA a copy of the application to the U.S. Office of Education. These applications fill cartons, and it is extremely difficult for the SEA to review them and offer technical assistance to LEA's in 15 days.

   ESAA should be administered within a state by the SEA. The SEA would then suballocate the funds within the state. SEA's have more thorough knowledge of the school districts and their needs and are in a position to establish district priorities according to their eligibility and requirements. In New York State, the Commissioner of Education has legal jurisdiction over desegregation cases in the LEA's. He is the state official most familiar with the legal problems in the districts.

3. With an ESEA, Title I, state plan program, ESAA could be administered by the SEA jointly with Title I and with the state's own compensatory education program. This would be advantageous, for example, in solving the problem of funds not following a Title I child who is moved to a non-Title I school through mandatory desegregation. Title I funds for basic skills could continue for one additional year where economically feasible, and ESAA funds could follow for an intergroup relations program, perhaps including a teacher training and curriculum revision component. In addition, states could better coordinate the bilingual education component of ESAA with the bilingual education program in ESEA, Title VII. Similar technical assistance activities could be carried out under Title IV of the Civil Rights Act.

4. Most ESAA funds are currently used for compensatory education in such basic skills as reading and math. This results in duplication of the Title I program. The purpose of ESAA should therefore be reexamined. From a management standpoint, it would seem logical to have Title I as the basic skills component, coordinated with ESAA as an intergroup relations and desegregation program that stimulates innovation. Such a program would assist not only in the desegregation process, but would also provide for greater community and school personnel involvement and teacher training aimed at removing racial conflict or misunderstanding.

5. We support retention of ESAA supplementary programs contributing to the Act's major purposes. There are many examples of these funds leading to increased interracial understanding. One such program is New York State's widely acclaimed educational television series, *Vegetable Soup*. This series seeks to help young viewers to develop a positive at-

titude toward different cultures and the customs of the many ethnic minorities in America. More than 280 stations in the country carried the series, which was the first children's program ever carried on a commercial network and ETV stations at the same time. Some stations have repeated the 39 half-hour programs as many as four times. *Vegetable Soup* has thus contributed to one of the major purposes of ESAA—alleviating negative effects of racial isolation.

VII. SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

The Federal government has provided since 1950 a program of financial assistance to local school districts affected by Federal activities. Payments are made on a per pupil basis for operating costs (P.L. 81-874) or for the construction of school facilities (P.L. 81-815) in districts providing free public education for federally connected pupils where the numbers of such students have an impact upon the resources of the local districts.

The Education Amendments of 1974 (P.L. 93-380) ensured funding within category "B" of the public low-rent housing program. This program provides funds to school districts for children residing on Federal property, exempt from property taxation, in low-rent housing projects. Forty-one districts in New York State receive funds under this provision. The total for the 1976-77 school year was approximately $17 million. Almost 90 percent of these funds go to New York City, but many small jurisdictions throughout the state also receive funds for low-rent housing children.

In addition, low-rent housing funds provided under the Impact Aid program are earmarked for ESEA, Title I, purposes only. Hence, unlike the remaining portion of the Impact Aid program (with the exception of the handicapped) which can be used by LEA's for general education purposes, low-rent housing funds can be used by the LEA solely upon approval of an application to the state education agency. No administrative funds are provided to SEA's for this purpose.

Recommendations

1. No attempt should be made to eliminate or modify language in impact aid which would have the effect of diminishing funds for the public low-rent housing program.

2. Additional administrative funds should be set aside for SEA's, perhaps in ESEA, Title I, to accommodate the increased administrative responsibility over impact aid low-rent housing funds.

VIII. BILINGUAL EDUCATION ACT

The Bilingual Education Program was established in 1968 to meet the special educational needs of limited-English-speaking children from low-income families. It is authorized under Title VII of ESEA. The U.S. Office of Education administers the program, providing funds to LEA's for the design, development and implementation of model approaches to bilingual education. The impact and involvement of states in this process have been inadequate due to statutory and regulatory deficiences. There has been criticism of the program in recent reports such as the 1976 GAO report and the more recent evaluation conducted by the American Institutes for Research for the U.S. Office of Education. The program has been effective to a large degree, we believe, but needs improvement in specific areas.

Definitions

Bilingual education is distinguished from the English-as-a-second language concept which stresses separate classes for English language instruction. Bilingual education uses English and another language for instruction in some or all subjects. It also emphasizes the culture of persons who speak the other languages. It is, in fact, a developmental process of learning in two languages. Participants include children proficient in English as well as limited-English-speaking children.

This bilingual/bicultural concept is important. Emphasis on ESL alone could have a negative impact on current programs in that 1) they could become "transitional" in nature with little concern for general cognitive and affective development, development of native language skills, or cultural enrichment of the students; 2) they might be transformed into simply remedial programs using pull-out or tutorial models; and 3) other children, including Anglo children, might not be allowed to participate, thus depriving them of cultural enrichment opportunities.

The statute refers in several places to "children of limited English-speaking ability." We recommend this language be changed to "children of limited English language proficiency." The current

reference limits eligibility to students based on one function of language, speaking. There are many students who have limited oral ability, but who are functionally illiterate with respect to reading and writing with comprehension. "Proficiency" is also easier to measure than "ability."

References are also made in the statute of children who "have difficulty in speaking and understanding instruction in English." We recommend changing this to "have difficulty in speaking, understanding, reading, and writing the English language." The intent of Congress is to have children progress effectively through the educational system. To achieve effective participation, students must be equipped in each of the four basic language skills. Present statutory language is limited in this regard.

State Plans

The state role in the bilingual education program is currently very limited, despite the fact that states have a key function of providing free public education to all children. Direct Federal monitoring and administration of the bilingual program have not been entirely successful, as indicated by both the AIR and GAO reports. States are in the best position to know the diverse needs and problems among the LEA's within each state.

This has also been found recently in the Canadian bilingual education program. The federally administered Canadian program is being restructured because of limited success, duplicative programming, financial waste, and evaluation problems. The new Federal focus will be on funding decentralized bilingual programs administered by the provinces to local boards. Programs will be designed at the local level to meet particular local needs.

This country's bilingual education program has grown to a $135 million "demonstration" project. It is time to emphasize instead a service program similar to ESEA, Title I.

The bilingual education program should be changed to a state-administered program. Allocation to the states should be based on a per capita basis for the school age population with limited English-language proficiency as determined annually by statewide language assessments. States would submit assurances and have a file with annual updates and language assessments. The plan would propose the criteria and method for intrastate allocations, to be approved by the U.S. Commissioner of Education. States would also be responsible for the training, technical assistance, evaluation, and monitoring of the bilingual programs within the state.

The LEA's, in turn, would be required to submit assurances and retain a five-year "competitive comprehensive plan," updated annually. Grants would be made only upon state approval of the local plan, which would show 1) how the Federal funds would be used in conjunction with funding from other sources in a comprehensive program, delineating all instructional and support services; 2) procedures for absorbing program costs as Federal funds diminish; 3) services to nonpublic schools; and 4) procedures for evaluation of program effectiveness by component, such as instructional, support, parental involvement.

State responsibility for reviewing the plans would ensure approval of quality "programs," as opposed to more limited quality "proposals." Procedures have not been established for state review and comment in such areas as funding decisions with respect to local proposals or input into Federal regulations; no comprehensive planning is required; nor are districts charged with the responsibility of gradually absorbing program costs.

Training

A number of training provisions in the statute should be consolidated into one training program administered by the SEA. They include the required 15 percent set aside in local funds and the various programs in Section 723, including the U.S. Commissioner's training grants to SEA's, LEA's, institutions of higher education, and institutions of higher education fellowships. The distribution of training grants needs improvement. LEA's are required to use 15 percent of their funds for this purpose, whether or not the need exists. There are no IHE training program criteria, with the result that several programs are simply "add ons" to foreign language education. Little attention is given to teaching methods in bilingual education, which often neglects use of the students' native language as a subject and learning tool. If students are to acquire basic skills, training programs must provide the vehicle for teachers to develop effective teaching strategies in a bilingual setting.

The 15 percent LEA set-aside requirement should be retained for inservice training, but with a waiver provision if an LEA can show the need does not exist. In addition, the Section 723 provision should be administered by the SEA's. This recommendation stems from past experiences where USOE-funded programs that were not registered in New York State, had not been reviewed by the Education Department, and excluded public postsecondary institutions. If training programs are to be successful, they must meet criteria and standards determined by each SEA.

Advisory Committees

The local advisory committees are limited to parents of children of limited-English-speaking ability. The effect is to isolate parents from the decision-making process in conjunction with teachers, administrators, and other parents; and to exclude participation of English-dominant parents who have voluntarily enrolled their children in the program. The statutory language should be changed to allow participation of any parents with children in the program.

The National Advisory Council on Bilingual Education does not include parents, students, and SEA's although specific quotas are assigned to teachers, teacher trainers, and school board members; nor are there clear procedures for recommending council members. We recommend including at least two parents of students of limited English language proficiency, at least one student, and at least two SEA representatives. Procedures for recommending nominees to the Council should be specified.

Immigrant Education

Our issue paper on the need for immigrant education programs is found in Appendix I. We strongly recommend that such a program be integrated in ESEA, Title VII. This can be done in a number of ways, including the addition of a new Part D, Financial Assistance for States Providing Educational Services to Immigrant Children, or a separate program within the Part A program authorization as a state-administered program.

IX. CONSOLIDATION

Several Federal acts serve similar groups with similar purposes. Programs under these acts should be a reorganized to permit greater flexibility in the use of funds, program consolidation according to educational function and populations to be served, and simplification of categorical requirements while enabling the states to develop appropriate regulations.

Illustration of the Problem

The example of one urban school district illustrates the problem of having several categorical programs under different acts and administrative auspices targeted at a student population with similar needs. Substantial numbers of students in the district are markedly deficient in reading and mathematics, and a high proportion have

English language difficulty. The district received Federal assistance under Title I of the Elementary and Secondary Education Act in all 20 of its schools. Both Federal and state agencies have funded other special educational projects in the district. The district had five bilingual programs in 1973-74, two established and administered by separate offices of the U.S. Office of Education, and three Title I bilingual programs approved and administered by the state.

In auditing the multilingual program, auditors from the Office of the State Comptroller, Division of Audits and Accounts, could find no indication that any of these agencies was aware of the extent to which others were meeting district needs for bilingual services. U.S. Office of Education personnel who supervised the multilingual program indicated they neither reviewed district data relevant to coordinating the use of funds with any others, nor did they coordinate data with other USOE programs or the state offices administering Title I, ESEA.

A further indication of coordination problems is reflected in a disagreement between the State Education Department and USOE regarding one project proposal. State Education Department personnel found the application to be inadequate and recommended funding only if the proposal was substantially revised. Despite this recommendation, the project was approved for funding by USOE. The district project was funded, but eventually the district returned the unused money to the U.S. Office of Education.

A part of the problem is the attempted "long distance" supervision by USOE directly over local school district projects. Auditors reports indicate a range of deficiencies and shortcomings in monitoring the various programs. For example, one unit of USOE did not conduct required field observations until the school year was almost over. Consequently, erroneous and misleading progress reports were submitted, and the program did not get close USOE supervision. After the site visit, the resulting USOE report was critical of program and management. In spite of the critical nature of this report, the USOE approved a grant award for the next year that amounted to a 225 percent increase.

With many discrete programs operating within the same district, involving monitoring by several agencies and levels of government, school personnel never really answered in a meaningful way to anyone regarding certain program aspects.

Consolidation

A major effort in consolidation should be to combine Federal programs serving educationally disadvantaged children and bilingual

students. A second effort should be to combine programs serving handicapped children.

Although there is widespread concern within the education community about consolidating existing categorical programs, there is less certainty within the Congress that consolidation would attain its expectations. The way to determine whether carefully designed program consolidation can insure greater flexibility at state and local levels consistent with purposes identified by the Congress is to try it. States should be permitted to consolidate programs with approval of the Secretary of the Department of Health, Education and Welfare.

States which see advantages in consolidation and are prepared to assume the obligation of that approach should be able to opt for it. Other states could continue with a categorical grant approach. This would provide a basis for determining effectiveness of restructuring and shifting the locus of decision-making called for in consolidation.

States that have programs similar to those of the Federal government would be able to integrate state and Federal programs and funds targeted on essentially the same population and needs.

Comprehensive State Plan

The consolidation plan would have a single set of administrative procedures. Rather than separate needs assessment, planning, administration, and evaluation for each Federal program, there should be one process by which the state and local school districts administer Federal programs. A single, comprehensive plan prepared by the state education agency in conjunction with each local education agency would further this objective. A single, statewide, needs assessment could identify all students in the state with special educational needs and indicate the services required. Special program needs would also be identified. Comprehensive planning could be based on this comprehensive needs assessment. Provision should be made for participation in planning by all agencies, organizations, and individuals in the state affected by Federal educational programs. Federal funds should be coordinated with the use of state and local funds intended for similar purposes and targeted on the same populations.

Grants for Planning

A state could receive a grant to assist in developing the consolidation plan. The magnitude of the task and the need for greater effort and expertise at the state level make the grant desirable.

Allotments

Legislation directed toward consolidation should contain assurances that the allotment of funds to states and the distribution to local education agencies result in no decrease in the amounts that would have been received under categorical assistance.

Management Inservice Training

Because the needs are urgent, substantial pressures are generated to continue categorical education programs even if monitoring detects serious shortcomings. The Congress must therefore insure that administration of programs is as effective as possible. Provision should be made for inservice training programs for management personnel as one way to promote more informed, rational, and systematic management of programs at planning and operational levels.

Research and Development

New Federal legislation aimed at consolidation should reflect the long-range need for greater research and development efforts to provide the tools and knowledge base for decision-making in high-cost education programs. Research and development efforts should foster development of valid measures of student achievement, research into the effectiveness of alternative educational approaches, and improvement of program management. Research will help shift the focus from a preoccupation with means to greater attention to ends. Results rather than methods should be of primary concern.

X. SUMMER FOOD SERVICE PROGRAM

The Summer Food Service Program has grown substantially in the last few years. Unfortunately, the increase has been accompanied by severe administrative problems and program waste. Administrative problems have occurred because of statutory limits and conditions on providing for administrative expenses.

Public Law 95–166, the "National School Lunch Act and Child Nutrition Amendment of 1977," amended the state administrative expenses provision to allow determination of the amount of administrative funds available to any one state to be based on the total amount of funds in that state's program during the preceding fiscal year. This is an improvement, since states can now plan for and employ personnel for the program with certainty about the administrative funds to be available.

However, P.L. 95–166 further provides a scaled determination of each state's share of administrative funds: 20 percent of the first $50,000 in program funds, 10 percent of the next $50,000 in program funds, 5 percent of the next $100,000 in program funds, and 2 percent of any remaining program funds. Previous legislation provided for a flat 2 percent for each state. The new formula is not an improvement for large states which receive millions of dollars per year in program funds.

The New York State Education Department had difficulty administering the Summer Food Service Program within the constraints of the available 2 percent administrative funds. Continued involvement of large states in the administration of the program requires a sizable, year-round professional staff for state education agencies to plan properly and administer this complex program in accordance with USDA regulations.

Recommendation

U.S. Department of Agriculture should be authorized to make available an additional 1 percent for administration to any state operating a program in excess of $15 million.

XI. ADULT EDUCATION ACT

Interest in adult education is growing substantially. This is especially so in New York State where lifelong learning is essential to adjust to the changing social, economic, and political environment. Education must be a continual process throughout life. It can no longer end with the school or college experience. Society must provide the resources necessary to deliver educational services to people of all ages.

Adult education is being encouraged in New York to provide people with a variety of opportunities to learn new skills of many kinds. The Adult Education Act has made significant contributions to this process. But more demands need to be met.

The 1970 census showed that New York State had approximately 4.9 million adults aged 25 and older with less than a high school education. Of these adults, 2.9 million had eight years or less of formal education and are classified as educationally disadvantaged.

Data for 1976 indicate that the various systems of adult education served approximately 1,226,000 adults. Nonparticipants are found in disproportionate numbers among the educationally disadvantaged. A

Needs Assessment Study completed in January 1977 indicates these nonparticipating adults must overcome financial and personal barriers. Demographic shifts further indicate that the number of families with income below the poverty level is increasing. Between 1970 and 1974 (when the national average declined by 2.3 percent) the number of such families in New York State increased by 6.6 percent.

Increases in the composition of the State's elderly population also have consequences for adult education. Persons aged 65 years and older currently comprise 11 percent of New York State's population. Large numbers of educationally disadvantaged persons approaching retirement are seeking productive and rewarding pursuits beyond their working years. Retired educationally disadvantaged adults should be able to pursue lifelong interests or develop new ones. These interests can benefit the rest of society as well as provide satisfaction to the individuals.

It is estimated that there are more than 8 million illegal aliens in the United States who may be allowed to stay. If so, states like New York will have to provide a citizenship program for them. The Federal government should play a vital role through funding to assist the states to educate aliens. (See Appendix I.)

New York State operated in 1976 an Americanization program for 15,000 aliens. In 1974, we had a program for 35,000 adults. This program cutback resulted from the loss of local adult education money. Local and state governments alone cannot meet the crucial need.

Recommendations

The Adult Education Act should be extended at higher authorization levels, with the following additions:

1. There should be new program authority with an allotment under this Act for the operation of citizenship/education programs for immigrant aliens. This program could provide English as a second language, literacy and cultural education, history and government of the United States, and social skills.

   States, at their discretion, can now include immigrant students in the English as a second language component of their ongoing adult basic education program. The legislation should allow the new program for immigrant education to be included in the state plan for adult education.

   This legislation is of particular significance for states like New York that have large ports of entry into the country. The educational process for immigrants is more than a local or state issue. It is a national concern. Provision should therefore be made to provide the legal, financial, and technical

support to educate aliens who plan to become citizens. Adult education is an established vehicle for immigrant education. However, legislative changes and increased funding are required.

2. Special Projects for the Elderly. Section 310 of the Act, special projects for limited and non-English-speaking elderly, should be reauthorized and amended to allow direct allocation to the states on the basis of the relative number of limited and non-English-speaking elderly population in each state. Each state plan should provide for coordination, where applicable, between this program and its immigrant education program.

   Such programs should be designed to equip these elderly persons to deal successfully with the practical problems of everyday life, including shopping, transportation and housing needs, and complying with governmental requirements to obtain citizenship, public assistance, and Social Security benefits.

3. Planning Grants. A new authorization of $5 million should support planning grants to the states. These grants would fund needs assessments, long-range planning, implementation of programs, and articulation of adult education with such other programs as CETA. The planning grants could be used to plan programs for such groups as the unemployed, migrants, handicapped adults, minorities, women, blue-collar workers, and the elderly. This change in the legislation would allow the states to work with local, regional and cross-regional agencies to carry out planning.

   The county and local agencies and officials would need to sign agreements authorizing and encouraging the development of joint planning for serving disadvantaged adults. These agreements should be initiated by Federal officials, through state agencies, to the county and local agencies.

   The state agency responsible for adult education, in accordance with the state plan, would bring the agencies together to start joint program planning. In addition, several states might work cooperatively if they have similar populations and needs.

   Reaching economically and educationally disadvantaged adults is more difficult than reaching more traditional adult students. Effective approaches require a well-designed and coordinated plan for supportive services.

   No planning network today is funded to bring together multiple services and agencies for joint planning, even though all are serving the same population. Lack of coordination has created wasteful duplication of services and high administrative costs.

XII. VOCATIONAL REHABILITATION

Background

The Rehabilitation Act of 1973 is designed to assist physically and mentally disabled persons who have substantial vocational handicaps to acquire a capacity for productive work, or improved functioning as workers or homemakers within their own homes. The range of services available under the vocational rehabilitation program includes professional rehabilitation counseling, diagnostic and evaluation services to assess vocational potential, a variety of training services, surgery or appliances to reduce disablement, selective placement in suitable work, and postemployment aid to assure that the handicapped worker is able to maintain his or her employment.

In New York State, vocational rehabilitation services for all but the blind are administered by the Office of Vocational Rehabilitation of the State Education Department. (Blind persons are served by the Commission for the Visually Handicapped of the State Department of Social Services.) The basic rehabilitation counseling and planning with clients are carried on by the counseling staff of the Office. Such other services as training and restoration are secured through other public, voluntary, or proprietary community sources.

The Office of Vocational Rehabilitation currently serves more than 100,000 clients annually. Many of these disabled youths and adults are referred by the Social Security Administration as Social Security Disability beneficiaries or Supplemental Security Income recipients. Some are disabled public assistance recipients referred by local Departments of Social Services. Others are referred by physicians, hospitals, school programs for children with handicapping conditions, and a variety of other local agencies. Many clients apply for services directly.

The vocational rehabilitation program is now 58 years old and has national funding of $740 million. It operates under extended authority of the Rehabilitation Act of 1973, which expires on September 30, 1978. Pursuant to Congressional budget procedures, new anthority must be reported out of both House and Senate Committees by May 1978 in order for the vocational rehabilitation program to be included in the FY 1979 appropriations bill. In reauthorizing the vocational rehabilitation program, the Congress must consider several issues which the Regents highlight below.

Issues

The chief areas of concern in the reauthorization of the vocational rehabilitation program involve the authorization levels, allocation

formula, treatment of severely handicapped persons, program staffing, and improvement of rehabilitation facilities. Other items are indicated in the recommendations below.

Several factors squeezing program services call for reconsideration of present authorization funding levels. With the amount of resources currently available for the program, it is not possible to serve all who apply. Plans have had to be developed for serving first those groups identified through Federal mandate and state interagency agreements as having the highest priorities. Among this group are the most severely handicapped who require both lengthier and specially developed services which are generally more expensive. Inflation and the economic slowdown have also affected the level of resources available for the program. Although program accountability, general productive improvement, and the application of other benefit sources are being addressed to stretch available resources, the planned expansion of services for certain disability groups has been deferred. In addition, the State's unemployment rate—above the national average—continues to limit opportunities for the handicapped to become productive members of society.

Another area of long concern to New York and many other states is the allocation formula. The current Federal formula for allocation of funds among the states for the Basic Support Program reflects national conditions prevalent more than two decades ago. A new formula which is equitable under present economic and demographic circumstances is needed. The 1954 amendments to the 1920 law were intended to give added stimulus and encouragement to vocational rehabilitation efforts in rural and Southern areas, and in states where relatively little progress in such programs has been made; namely, the low per capita income states. The formula relies heavily on two factors—population and total per capita income—and uses a "squaring" mechanism of inverse ratios of population and per capita income. The effect is to target funds away from large, industrial states where educational and training costs are greater, and the number of people in need of services is significantly larger.

The current allotment formula was reauthorized by the 94th Congress for less than a two-year period and will be continued automatically unless a change is made. The following table illustrates the comparative impact of the present formula on nine states.

It should be noted that in an analysis of all states, the 25 receiving the lowest per capita aid grants in FY 1972 and FY 1973 represented almost 75 percent of the nation's population.

Treatment of severely handicapped persons is another important issue which must be considered. Many severely handicapped per-

TABLE VII

STATE	DISABLED POPULATION PER CAPITA GRANT FY 1976[1]
Wyoming	$113.50
New Mexico	91.90
South Carolina	80.70
Louisiana	78.00
Massachusetts	57.80
Connecticut	47.10
New Jersey	45.50
Illinois	44.80
New York	44.10

[1] Department of Health, Education and Welfare data.

sons who cannot embark upon vocational objectives or who may not be able to complete vocational rehabilitation services could attain greater functional independence if provided with appropriate services. Some could be improved functionally to the point where they might be able to pursue vocational goals. Others who are later determined unable to undertake vocational activity can be helped to more independent functioning through continuation of some rehabilitation services. Under current statute, the latter have their programs stopped and their records closed as "not rehabilitated." These individuals could be helped to improve their functioning activity. The present Act has authorized studies to define better the need and the resource requirements for such services. Early indications are that sufficient public and personal benefits exist to justify such a program of services for independent living.

Program evaluation is one function of the Rehabilitation Services Administration in the Department of Health, Education and Welfare which should be internally staffed to assure a satisfactory level of coordination with the states. The tendency at the Federal level has been to adhere to required agency personnel ceilings by annually contracting functions to companies, universities, and other establishments outside the government. This practice proves counterproductive in some program areas for which year-to-year continuity of function, communication with state agencies, and development of requisite competency are important.

Finally, the current Act authorizes the improvement, development, and construction of rehabilitation facilities. Development, expansion, and improvement of rehabilitation services are essential if the special service needs of larger numbers of severely handicapped persons are to be met. To help assure priority status for such construction and improvement, separately identified authority should be continued and adequately earmarked funding provided. Funding for this construction program would also have general employment benefits and would allow facility modifications for meeting the requirement of program accessibility set forth in the Section 504 regulations.

Recommendations

1. **Expiring Authority.** Since there is no authority past September 30, 1978, ability to budget is seriously impaired and capacity for sound planning adversely affected. We strongly urge prompt action on the passage of legislation to extend the vocational rehabilitation program beyond the September 30, 1978 expiration date.

2. **Adequate Authorization Level.** The current authorization levels should be increased in light of changing cost factors and increased mandates.

3. **Allocation Formula.** A clear need exists for a new formula that will be equitable under present conditions. Under Part C of the Rehabilitation Act, Innovation and Expansion Projects, there is a more equitable allocation formula for project grants on the basis of state population with a minimum grant for each state. A similar approach to basic support allocations would provide New York and other populous states with allotments which better reflect need and cost. In addition, the existing formula ignores regional differences in cost and fails to target aid effectively areas with greater total need.

We recommend elimination of the "squaring" mechanism and use of per capita disposable income as a more realistic indication of income capacity, rather than total per capita income. Senator Jacob K. Javits has introduced a bill, S. 2042, providing aformula change which should be strongly supported in the Congress.

4. **Treatment of Severely Handicapped for More Independent Activity.** Any program for independent living should be administered by the vocational rehabilitation agencies and authorized and funded as a separate program.

5. **Appropriate Program Staffing at the Federal Level.** Where functions must be carried out by Federal agencies, the agencies

should be given adequate support, or be required to contract with stats agencies to carry out such functions.

6. **Construction and Improvement of Rehabilitation Facilities.** Separately identified authorization for this purpose should be continued with an adequate earmark for funding. (See Section XIII for Regents funding recommendations in this area.)

7. **Retention of Integrity of Rehabilitation Services for Handicapped Persons.** For over a half century, the Federal-State Vocational Rehabilitation Program has been a successful advocate of the vocational handicapped largely because of its singular purpose, focused responsibility, and earmarked resources. The handicapped have recently been recognized by the Federal government as deserving "affirmative action" consideration. This policy is sound, but it has been accompanied by the tendency to disperse services among programs and agencies. It is important that the elements of vocational rehabilitation not be diffused among broader program areas because, as has been shown in some regional experiments, the interest of the handicapped then also becomes diffused, less visible, and commands less attention.

8. **Innovation and Expansion Project Program.** Specially earmarked funds for the development of improved program services should be continued and increased so that the program can keep pace with new techniques and opportunities.

9. **Census Data.** National and state information on the prevalence and incidence of disabilities and work handicaps is needed for effective planning of Federal and state programs. The 1980 census and each census thereafter should secure sample-based information on a limited number of items to be identified by the Rehabilitation Services Administration

XIII. MEETING SECTION 504 REQUIREMENTS, FACILITY RENOVATION FOR THE HANDICAPPED

Physical disability has been recognized by the Federal government as a national problem affecting millions of people in all parts of the country, in all age groups, and most occupations. Those whose mobility is impaired—wheelchair and crutch users, the arthritic, aged, blind and deaf—comprise about 12 percent of the U.S. popu-

lation, a minority of significant size. Barriers which inhibit opportunities for the handicapped to pursue an education and career of their choosing should be eliminated.

With the recent publication by the Department of Health, Education and Welfare of regulations for carrying out the mandates of Section 504 of the Rehabilitation Act of 1973, state and local agencies and institutions receiving HEW funds are under a Federal civil rights obligation to make programs and facilities accessible to the handicapped. Failure to comply is ultimately subject to a suspension or termination of Federal funds. The total nationwide cost of meeting the requirements set forth in the Section 504 regulations is as yet uncertain, but is estimated to be in the billions of dollars.

The Federal government is providing some assistance for program activities for the handicapped in certain areas such as elementary and secondary education and vocational rehabilitation. However, no direct Federal assistance is focused on helping libraries and education and rehabilitation institutions make facility renovations which allow program accessibility to the handicapped. The regulations stipulate that institutions must make such structural changes by June 1980.

In view of current economic difficulties, especially among the Northeastern states, it is imperative that the Federal government provide institutions with financial assistance to help carry out the Congressional mandate. No new authorization need be enacted. We have identified in Table VI existing provisions in five different statutes which enable the Congress to appropriate funds for this purpose. The statutes, as amended, include the Higher Education Act of 1965, the Education of the Handicapped Act, the Rehabilitation Act of 1973, the Library Services and Construction Act, and the Vocational Education Act. Appropriations for these authorities would provide assistance to public and private, nonprofit postsecondary institutions, public elementary and secondary schools, public or nonprofit rehabilitation institutions, and public libraries. There is specific language which would allow funds to be earmarked to meet Section 504 requirements. Submission of applications under these programs will facilitate the assessment and planning processes and assist institutions with their actual compliance needs, if funded.

Neither the Federal government nor state and local institutions would singly bear the total cost of this endeavor. The authorities cited—with the exception of the Education of the Handicapped Act—include matching requirements from non-Federal sources, thus generating the expenditure of additional funds above the Federal contribution.

TABLE VIII

EXISTING RENOVATION/RECONSTRUCTION AUTHORIZATIONS

PUBLIC LAW	SECTION		PURPOSE	ELIGIBLE RECIPIENTS	AUTHORIZATION
A. GRANTS					
1. **Higher Education Act** (P.L. 92–318, amended by P.L. 94–482)	Sec. 701(b) Sec. 721(b)	Purposes of Sec. 771(a) (2)	Reconstruction and renovation of academic facilities to meet requirements of Architectural Barriers Act, health and safety standards mandated by law, and Rehabilitation Act, Section 504.	Public and private nonprofit institutions of higher education and higher education building agencies.	$300 M $80 M
2. **Education of the Handicapped Act** (P.L. 91–230, amended by P.L. 94–142)	Sec. 607		Reconstruction and renovation grants to local education agencies to meet the requirements of Architectural Barriers Act and Rehabilitation Act, Section 504.	State and local educational agencies or intermediate educational units.	Such Sums
3. **Rehabilitation Act of 1973** (P.L. 93–112, amended by P.L. 94–230)	Sec. 301(a)		Construction of public and nonprofit vocational rehabilitation facilities.	States and public or nonprofit organizations and agencies.	Such Sums
4. **Library Services and Construction Act** (P.L. 91–600, amended by P.L. 93–29 and 95–123)	Sec. 4(a)(2)	Purposes of Sec. 202	Remodeling of public libraries necessary to meet the standards of the Architectural Barriers Act and for energy conservation.	States with an approved state plan, for public library facilities.	Such Sums
5. **Vocational Education Act**	Sec. 192	Purposes of Sec. 191	Modernization of facilities and equipment and the conversion of academic facilities including remodeling and renovation to make the facities comply with the Architectural Barriers Act.	Local educational agencies.	25 M for FY 78 and $50 M for FY 79
B. LOANS					
1. **Higher Education Act** (P.L. 92–318, amended by P.L. 94–482)	Sec. 741(b)	Purposes of Sec. 771(a) (1)	Reconstruction and renovation of academic facilities to economize on the use of energy resources.	Public and private nonprofit institutions of higher education and higher education building agencies.	$200 M

The authorization levels provide flexibility in determining the amount of funds to be appropriated. Exceptions are the Higher Education Act, which sets a level of $580 million per fiscal year for grants and loans, and the Vocational Education Act, which sets a level of $25 million for FY 1978 and a level of $50 million for FY 1979.

Recommendation

The Congress should appropriate funds for the above-cited authorizations in the FY 1978 Second Supplemental Appropriations Bill. It is important for the Congress to act early so that program implementation and the obligation of funds can occur with maximum benefit for institutions requiring structural modifications by June of 1980.

XIV. COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (CETA)

The purposes of CETA are to provide job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons and to assure that training and other services lead to maximum employment opportunities. The Act also seeks to enhance self-sufficiency by establishing a flexible and decentralized system of Federal, state and local programs.

For over a decade, the Congress has experimented with several governing structures to deliver federally funded programs. The tendency is to supplement or supplant the traditional pattern of Federalism—Federal, state and local structures—by new structures through which communities, cities, counties, and states separately approach the Federal government for financial assistance.

CETA is an example of a new structure which circumvents the traditional pattern of Federalism. The Act was designed to enhance local decision-making. Regard was not given to state needs. The result is little or no coordination between activities at the prime sponsor level and activities of a similar nature at the state level. Moreover, much local autonomy has been eroded by increasingly restrictive U.S. Department of Labor regulations governing the development of "acceptable" plans and the need for "acceptable" results.

Programmatically, CETA tends to supplant existing education and training programs at all levels—Federal, state and local. There is lit-

tle or no coordination between the delivery of CETA programs and existing education and training programs. The Education Amendments of 1976 provided some steps toward coordination in the education sector. The more recently enacted Youth Employment and Demonstration Projects Act also moved toward more coordination of the manpower sector with the education sector, but did not advance far enough. The use of prime sponsors as the delivery mechanism for Federal aid continues to complicate efforts toward coordination. Most CETA programs at the prime sponsor level are neither statewide programs nor regional ones. Hence, coodination with state and regional programs for the same geographic areas is difficult.

Recommendations

1. Federal funds under all CETA programs should flow to localities through existing state structures and programs.
2. State education agencies should be granted funds to monitor and assess the educational benefits of all education components of projects under the Act.
3. Education and training services should be provided by education and training agencies accredited in the state, either as part of their regular program or through purchase of services agreements.
4. A Comprehensive State Plan for Youth Unemployment should be developed jointly be each state labor and education agency.

Youth Employment and Demonstration Projects Act

The Youth Employment and Demonstration Projects Act, which is an amendment to CETA, was enacted as a major effort to combat unemployment among youth. It provides four new programs designed to employ and increase the employability of youth; to coordinate and improve career development, jobs, and training programs; and to test innovative approaches for providing services to young people. Programs under this Act provide important new opportunities for shaping education and training.

The Act has a one-year authorization, FY 1978, except for the Young Adult Conservation Corps, which is authorized through FY 1980. The youth programs which expire in FY 1978, in addition to other CETA programs, should be reauthorized this year.

The Youth Employment and Demonstration Projects Act provides a major role for educational institutions. There are, however, administrative deficiencies in the Act which require funds to pass through local prime sponsors into educational institutions. This re-

sults in an absence of state planning or monitoring either by labor or education agencies. The pattern undermines the potential for state planning of funds under this Act in combination with vocational education and other job training resources.

Recommendation

Title III, Part C, Subpart 3, of the Youth Employment and Demonstration Projects Act should be revised so that the portions of funds earmarked for use in the educational institutions become a Youth Opportunity Act to be administered through state education agencies and in turn through local school districts, colleges, and universities with the same purpose as now included in this title and subpart. Administration by the state education agency would be handled under a plan jointly developed with a state labor department. Educational institutions would operate programs developed in cooperation with prime sponsors. This revision would provide a strong connection between the use of funds for youth employment training and the Vocational Education Act and Comprehensive Employment and Training Act funds together with state and local resources for similar purposes.

XV. POSTSECONDARY EDUCATION

Safeguard Against Guaranteed Student Loan Bankruptcies

The Education Amendments of 1976 added a new provision, Section 439A, to part B of Title IV of the Higher Education Act of 1965. It provided a five-year moratorium on the discharge in bankruptcy of guaranteed student loan debts, as of October 1, 1977. This provision was strongly recommended by the Board of Regents as a safeguard against abuse of the student loan program.

Recent legislation reported out by the House Judiciary Committee would repeal this section. The legislation, H.R. 8200, was withdrawn from the House floor last October because of controversy over other bankruptcy provisions. But when the bill is reconsidered in 1978, the repeal of Section 439A may be raised again.

We believe the moratorium provision should not be repealed. The moratorium should help prevent students from discharging loan obligations in bankruptcy and then going to work free of debt rightfully owed. From the program's inception until 1972, such discharges totaled $2.4 million nationally. By February 1975, national totals reached $11.3 million.

In New York State, the rate of increase for bankruptcy is greater than for total defaults. Statewide figures for Fiscal Year 1975–76 show that bankruptcy accounted for 10.5 percent of defaults purchased. This rose to 11.9 percent for 1976–77, and to 12.3 percent for the first quarter of 1977–78. Projections for the entire 1977–78 Fiscal Year are $4.6 million, compared to $3.6 million in 1976–77.

Recommendation

The Guaranteed Student Loan Program is a successful Federal effort to help students meet educational costs. By 1976, approximately one in every 30 Americans had benefited from the program. Unfortunately, with program growth has come more opportunity for abuse which threatens the fine success record. Section 439A offers workable protection from abuse. We believe it is an effective method for safeguarding the integrity of the Guaranteed Student Loan Program.

State Planning To Meet Requirements of Section 504

The funding of 1202 State Planning Commissions has assisted states in improving the planning process for the total postsecondary sector in a state. During the current program year, New York State is improving its data system; developing long-range planning models on enrollment, finances, and the effects of tuition changes on the demand for postsecondary education and improving the coordination of State and Federal student assistance programs. The requirements of Section 504 place new demands on states to plan for the new Federal regulations. It is important that states undertake new planning activities to develop criteria for the funding of reconstruction and renovation projects, plan the impact on programs of postsecondary institutions, and develop budget estimates by state of the financial impact of the requirements of Section 504.

Recommendation

The appropriations for 1202 State Planning Commissions should be increased to assist state planning in meeting the Federal requirements of Section 504.

Improving Opportunities for Postsecondary Education Through Tax Relief

Middle-income parents face great difficulties in financing their children's postsecondary education. Their children do not receive much, if any, benefit from the Basic Educational Opportunity Grant Program or from New York's Tuition Assistance Program. At pres-

ent, the cost per year of postsecondary education in New York is about $7,000 at independent and $3,500 at public institutions. It is likely that costs will rise in the future. This places an unreasonably heavy burden upon middle-income families, especially those with two or more children close in age.

The Parents and Students Savings Plan (PASS)

Recently, Governor Carey proposed a savings plan to allow parents tax-free contributions to a college-going trust fund for their children. It is called the Parents and Students Savings Plan. Under this proposal, a parent could set aside a trust fund and exclude the yearly contribution from gross income for tax purposes. No exclusion would be permitted in any year when the donor's adjusted gross income exceeds $45,000. The amount that can be excluded annually could not exceed the lesser of 10 percent of adjusted gross income or $1,200.

The advantages of a tax-free savings plan are not only that it provides incentives for parents to save for their children's education, but also that these savings will provide capital for investments throughout the State.

While state-level, tax-free, trust accounts would provide some relief, the program must be applied to Federal personal income taxes as well, in order to reduce the burden of educational costs.

The Regents recommend that Congress include in the tax reduction bill expected to be enacted in 1978 a provision to allow parents tax-free contributions to a college-going trust fund for their children. The amount that could be excluded annually should not exceed the lesser of 10 percent of adjusted gross income or $1,200. No exclusion would be allowed in any year when the parents' adjusted gross income exceeded $45,000. Such a tax-free fund could provide needed relief to middle-income families while strengthening the future of postsecondary education.

An Income Tax Credit for Postsecondary Educational Tuition

During the past 20 years, the cost of postsecondary education has spiraled upward. Recognition of this fact has led to state and Federal programs to help defray educational costs for low-income students. Now, parents in the middle-income bracket face great difficulties in financing postsecondary education for their children.

There has been growing interest in providing some form of tax relief for middle-income parents with children enrolled in postsecondary education. Several proposals for tax relief now are under consideration by the Congress. Senator Roth sought to include a higher

education tax credit in the 1977 Social Security Bill. Hearings were held in January 1978 on the Moynihan-Packwood bill for a tuition tax credit, a bill cosponsored by 41 other senators. In 1978 some type of tax credit for postsecondary education probably will be enacted. It is not clear what the specific measure will be.

At a time when the President and Congress are giving close consideration to major tax reform, including a significant reduction in taxes, the Regents urge that a part of such tax relief be related to the cost of postsecondary education services. The benefits from tax relief for postsecondary education costs will accrue both to families and to institutions of higher education.

Several variations of tax relief have been advanced. The most prominent are tax deductions, tax credits, tax deferments, amortized tax credits, and tax credit/deduction options.

A tax deduction, which lowers the amount of taxable income, would provide some relief for middle-income taxpayers. No recent bills incorporating a tax deduction have generated widespread support.

A tax credit, on the other hand, is a credit against tax liability. After an individual's taxes are calculated, tax credits are subtracted from the amount owed. Credits can be targeted on middle-income groups by graduating the amount of the credit at the higher income levels. Tax credit plans are simple and involve almost no administrative costs. The major disadvantage to a tax credit is that it offers nothing to low-income families with little or no tax liability. But these students already have access to many forms of aid.

Amortized tax credits are not considered seriously because the administrative costs would be high for relatively little benefit. Like the tax deduction, the tax credit or deduction option, in which a taxpayer could choose which he preferred, has not generated widespread support in recent years. The tax deferment concept has been endorsed by the Regents in the form of the Parents and Students Savings Plan and would be a suitable supplement to a tuition tax credit.

The tax credit has great potential for meeting the needs of parents and institutions. It would serve these goals:

1. Assisting middle-income families to finance the education of their children.
2. Aiding postsecondary institutions to recruit students from middle-income families; and
3. Strengthening the economy.

These goals are interrelated. Most middle-income families hope to educate their children, but the costs are increasingly high at both

public and independent institutions. The burden is greater than ever because rising educational costs are coinciding with a period of "sibling overlap," in which children tend to be closer in age, so that many families have more than one child in college at the same time. A tax credit would help alleviate this burden. For example, we estimate, on the basis of Census Bureau information, that in 1978 the median family income in New York State will be about $18,000, almost double the typical family income of a recipient of an award from New York's Tuition Assistance Program. A child whose family's gross income is $18,000 would be eligible for a TAP grant from New York State of $600 against a tuition bill of $3,500 at an independent institution. Parents would need to provide $2,900 for tuition, plus support of the other expenses of attendance. At a public institution, the student would get $100 from TAP, leaving a tuition bill of $650, plus support of the other expenses of attendance. Median income families have difficulty affording the tuition at both public and independent institutions without further assistance. Students from families with incomes of $18,000 are unlikely to be eligible for Basic Educational Opportunity Grants.

The tuition differential between independent and public institutions now approaches about five to one. Nationwide, this has resulted in fewer less choice for such students. If independent institutions are forced to close, the cost to the public will be great because of the large taxpayer subsidy of the education of students at public institutions.

A higher education tuition tax credit would also help strengthen the economy in a variety of ways. It would help protect and perhaps create jobs within postsecondary education, a significant factor in New York State where there are over 75,000 faculty members and where two percent of the work force is employed by postsecondary institutions. More important, it would give students, spouses, and displaced workers the opportunity to prepare or retrain for employment.

To have any real impact, a higher education tuition tax credit would have to be close to $500, the sum proposed in the Moynihan-Packwood bill. To target this credit on middle-income families, the amount of credit would be reduced by 5.6 percent of income in excess of $31,000 adjusted gross income. Thus, the credit would decrease to zero at an adjusted gross income of $40,000.

Recommendation

A $500 maximum tuition tax credit should be structured in the following manner: 20 percent credit on the first $1,000 of tuition ex-

A COMPARISON OF THE TUITION TAX CREDIT PROPOSALS

Proposal	Provisions	Cost	Advantages	Disadvantages
Senator Roth	—Flat credit of $250 the first year, scale up to $500 the fourth. —For any postsecondary expenses for self-spouse, and/or dependents enrolled full-time. —No income ceiling. —No rebate to low-income earners.	$175 million in 1978 $1.9 billion in 1981	—Administrative simplicity.	—Not geared to tuition so favors those attending public institutions where expenses are low. —No income ceiling. —Full-time students only. —Nothing for low-income groups. —Cost
Senators Moynihan-Packwood	—Credit of 50 percent of tuition expenses up to $500. —For individuals, dependents, or spouses attending elementary, secondary, or postsecondary institutions, full- or part-time. —Rebate for low-income individuals/families. —No income ceiling.	$4.7 billion in 1978	—Geared somewhat to tuition. —Rebate for low income. —Full- and part-time.	—Cost —May provide unconstitutional support for religious elementary and secondary education. —50% of tuition helps those attending public institutions more than those attending private institutions. —No income ceiling.
Regents	—Credit of up to $500 for tuition only for full- and part-time individuals or dependents. —Percentage of tuition formula: 20% of first $1,000, 100% thereafter up to an additional $300. —Income ceiling; reduced after $31,000 adjusted gross income to zero at $40,000.	$2.0 billion in 1978	—Percentage formula aids independent institutions. —Income ceiling so does not subsidize wealthy. —Full- and part-time.	—Cost

penses and 100 percent of all tuition expenses over $1,000 up to an additional $300, for a total credit of $500. The $500 maximum should be reconsidered after three years to reflect inflation or other price changes.

The percentages are calculated not only to aid middle-income families, but also to support families sending students to independent institutions. Nationwide, undergraduate tuition at public institutions is $587 for in-state residents; at independent institutions it is about $2,500. Under this tax credit plan, a family with New York's estimated median income of $18,000 and one student at such a public institution, would get a $117 credit, while such a family with a student at an independent institution would get a $500 credit. In New York, where lower-division tuition at the State University of New York is $750, a full-time student from such a family would receive $100 from the Tuition Assistance Program, but probably no Basic Educational Opportunity Grant; the tax credit would provide an additional $150. At an independent institution in New York with a tuition of $3,500, such a full-time student would get a TAP award of $600, but probably no Basic Educational Opportunity Grant; the tax credit would provide an additional $500.

This credit would be for tuition expenses net of grants for tuition. Expenses such as fees, books, transportation, meals, and lodging are excluded.

The tax credit approach advanced here would not be limited to colleges and universities, but would also apply to business, trade, technical, and vocational institutions duly chartered or certified within their respective states. It would be applicable to both full-time and part-time attendance. Multiple credits would be allowed based on the number of persons from a family attending postsecondary institutions. Additionally, the tax credit would accrue to anyone paying for a dependent's education whether a relative or not. The tax credit could not be claimed both by a self-supporting student and by that student's parents, however. If more than one taxpayer shared costs, each could claim a prorated amounted of the tax credit.

A major block to any tuition tax credit proposal is its cost. In 1975, Senator Mondale's office estimated the cost of a higher education tax credit of $500 at $3.8 billion. But the Mondale proposal would not have had a percentage scale. The credit proposed here would cost a maximum of $2.0 billion.

The Regents strongly urge that both the Parents and Students Savings Plan and the tuition tax credit plan outlined above be included in the comprehensive tax reduction bill to be acted upon during 1978.

XVI. ARTS AND HUMANITIES

In the first session of the 95th Congress, joint resolutions were introduced in both the House and Senate which provide for two White House Conferences in 1979, one on the arts and the other on the humanities. National conferences on each would be held in Washington, D.C., following state conferences at which issues would be identified and delegates selected for the national conference.

Federal support for the arts and humanities has grown substantially over the past ten years. A national conference on each would bring together persons from different disciplines, individuals from cultural institutions, scholars, educators, and representatives from educational associations, agencies societies, labor, business, and industry which support the arts and humanities. Such a national forum would provide the opportunity to discuss the issues and future direction of Federal policy in these areas.

The House Subcommittee on Select Education has been holding a series of regional hearings on the two bills. Hearings were held in New York City on December 16 and 17, 1977. There was strong support the White House Conference. The Regents recommend that the House and Senate pass their joint resolutions early in this session so that planning and preparation for the conferences may begin soon.

XVII. UNEMPLOYMENT BENEFITS FOR SUBSTITUTE TEACHERS

Public Law 94–566 made public schools subject to the unemployment insurance laws on January 1, 1978. The law adds an unnecessary cost burden by requiring unemployment insurance benefits for occasional substitute teachers. The schools must pay the cost of such benefits because the Congress failed to permit the states to exclude substitutes from the overall requirement.

The new law enables a substitute teacher paid as little as $30 a day who spends only 27 days in the classroom, spread throughout 20 weeks of the previous year, to qualify for 39 weeks of unemployment benefits.

This means school districts could be forced to pay substitutes subsidized incomes for doing occasional work. The added cost will have a negative impact on the quality of educational programs.

Recommendation

The Congress should permit the states to exclude from unemployment benefits persons who substitute less than 45 days a year.

APPENDIX I

FEDERAL AID FOR THE EDUCATION OF IMMIGRANT CHILDREN

Introduction

Federal policymakers have traditionally failed to recognize the ongoing nature of immigration to the United States and the associated special needs of immigrant students. As a result, Federal policy regarding immigrant education has been a series of reactive responses to immigration crises—particularly to waves of political exiles. Rising immigration levels, and a shift in country of origin, today mandate legislation of a consistent Federal policy to aid overburdened states and local school districts providing for immigrant education needs.

Rationale

Since 1965, the number of school-age immigrants entering the United States legally has increased more than 30 percent. Moreover, the background of today's immigrant child differs from that of immigrant children in previous years. Due to recent developments in the United States foreign policy and liberalized immigration requirements for developing countries, many of today's school-age immigrants possess backgrounds strikingly different from those of mainstream Americans.

Numbers of immigrants from selected Asian areas, particularly those of Vietnam, Thailand and Korea, have risen over 1,000 percent since 1965. Numbers of immigrants from English-speaking and culturally similar areas, such as the United Kingdom and Canada, have dropped by 60 to 80 percent in the same period (see Table A). Substantial increases have also been noted in numbers of immigrants from Mexico, Cuba, and other Spanish-speaking Latin American nations.

Many of these immigrants are of school age. Moreover, many are adults of child-bearing age and/or are the parents of preschool youngsters who will arrive later at school doors with needs for special educational services.

Because these students come from cultural and linguistic backgrounds substantially different from that of the United States, they have critical needs for additional educational services. Many are traumatized by the radical differences between the sociocultural, educational, and academic systems prevailing in their country of origin and those of the United States. Often their languages are ordi-

TABLE A

SCHOOL-AGE IMMIGRANTS ADMITTED BY SELECTED COUNTRY OR REGION OF BIRTH. YEARS ENDED JUNE 30, 1975 and 1965*

Country	Number of School-Age Immigrants 1975	1965	Percentage Change
United Kingdom	2,702	6,840	−60.5
Canada	1,827	9,582	−80.9
Ireland	321	1,366	−76.5
Germany	1,289	6,011	−78.6
ALL COUNTRIES	96,549	74,174	+30.2
China and Taiwan	4,634	1,014	+356.9
Korea	7,091	541	+1210.0
Thailand	1,054	54	+1870.6
Vietnam	760	57	+1244.7
Mexico	15,551	9,492	+63.8
Cuba	6,489	4,940	+31.4
Jamaica	2,769	459	+502.9

* Approximately 25 percent of all entering aliens were of elementary and secondary school age. This percent was applied to total entrants residing in each state, 1965 and 1975.

narily not taught in American schools and special help must be provided. In 1975, 13 percent of the school-age population in the United States was non-English-speaking. Forty-nine percent of these students spoke Spanish. Greek, Portuguese and Asian languages also were spoken by large numbers of students (see Table B). The language barrier, combined with sharp differences in educational practices and philosophies, slows the young immigrants' rate of educational achievement and adaptation to American life. In addition to more bilingual faculty, other special support services and materials are needed to provide for the socialization of these students into the American culture.

A government survey recently raised the possibility that the United States may be a bilingual country within 50 years. This pre-

diction is based on the number of illegal immigrants annually entering the United States from Mexico and differential fertility rates among Hispanics. The survey committee forecast "somber" prospects for state and local governments—and for schools. The predicted thaw in United States-Cuban relations and current crises in African countries may also lead to influxes of students needing special services. As these trends continue, bilingual education is becoming a high-growth area in American education. Resources to provide these additional services are shrinking at a rapid rate.

Recent figures (see Table C) indicate that the burden for providing additional educational services for school-age immigrants falls

TABLE B

HOUSEHOLD LANGUAGES OF THE POPULATION: JULY 1975*

Language Spoken In Households	Total Population 4 Years Old and Over	School-Age Population 4 to 25 Years Old
TOTAL	196,796,000	83,150,000
English Only	167,665,000	71,404,000
Non-English as Usual or Other Language	25,347,000	10,639,000
Spanish	9,904,000	5,162,000
French	2,259,000	967,000
German	2,269,000	794,000
Greek	488,000	189,000
Italian	2,836,000	952,000
Portuguese	349,000	117,000
Chinese	534,000	219,000
Filipino	337,000	174,000
Japanese	524,000	213,000
Korean	246,000	107,000
Other	5,559,000	1,741,000
Not Reported	3,786,000	1,106,000

* National Center for Education Statistics, 1977.

TABLE C

CONCENTRATIONS OF SCHOOL-AGE ALIENS
IN MAJOR STATES
1976*

State	Number of School-Age Aliens	% of Total U.S. School-Age Alien Population
California	274,237	23
New York	175,906	15
Florida	78,770	7
Texas	81,150	7
New Jersey	59,113	5

* 25 percent applied as in Table A.

most heavily on the few major states in which these children are highly concentrated. California and New York together bear the costs of educating 38 percent of the total United States school-age immigrant population. Florida, Texas and New Jersey, in combination, must provide for the education of 19 percent of the total.

A brief summary of situations in most impacted states will be helpful in assessing the need for Federal aid.

Recent California legislation requires that state to conduct a language census through the local school districts. The state must then provide limited or non-English-speaking public school pupils present in numbers of at least ten per grade, grades K–12, with a program in a language understandable to them, irrespective of funding. The financial implications of such legislation are weighty. Census results show that 99 languages are spoken in Los Angeles alone.

California also ranks first in numbers of Indochina refugees served, and Texas ranks second. Both California and Texas are also experiencing an influx of immigrants from Mexico. Recent studies project that, in both states, minority enrollment in public schools should equal or exceed Anglo enrollment by 1985.

Total numbers of alien/immigrant children in Texas schools rose by 6,549 pupils between the 1975–76 and 1976–77 school years. Approximately one-fourth and one-fifth of these students, respectively, were attending the reporting school districts for the first time. Sixty-one Texas border districts reporting the greatest impact of such

students (up to 15 percent of the student population) were those with limited financial resources. Most of these students have limited-English-speaking ability and are unable to perform ordinary classwork in English. Additional facilities and programs are urgently needed.

In 1976, New York State served 25 percent of the national population of school-age aliens. Many of these children are concentrated in the already overburdened cities. For example, one-half of the 18,000 Russian Jewish immigrants arriving in the United States from 1971–76 settled in New York City alone. Six thousand more Russian Jews are expected to settle there by the close of 1978.

However, culturally disparate school-aged aliens such as the Vietnamese also are scattered widely throughout the State. Although New York ranks seventh among the states in its population of Vietnamese refugees, all but about 500, served by New York City, are widely dispersed within the State.

At least 22 languages are spoken in New York State. Of the 533,937 children diagnosed as in need of special educational services in 1975–76, only 150,000 could be served under present financial circumstances.

The current influx of linguistically and culturally disparate students is clearly the result of Federal action. Federal policy changes have opened immigration doors to vast numbers of non-English-speaking aliens—particularly to refugees. Moreover, recent Federal court decisions, such as *Lau v. Nichols*, require states and local districts to provide language instruction or "other adequate instructional procedures" for all non-English-speaking students. Noncompliant districts face violation of Section 601 of the Civil Rights Act and HEW implementation regulations. Loss of much needed Federal aid for other programs would result from such violations.

Costs

The intent of Federal court decisions is to provide meaningful opportunities for non-English-speaking students to participate in the educational program. This is laudable. However, Federal decisions impose added burdens of states and localities already facing financial crises. No Federal financial assistance is available for meeting these additional expenses.

The primary federally funded vehicle attempting to meet the needs of non-English-speaking students is Title VII of the Elementary and Secondary Education Act of 1965. This 1968 amendment defined the Federal role in assisting LEA's in providing educational services for bilingual elementary and secondary school students.

National and state supplementary cost figures for Title VII programs are very difficult to develop for a variety of reasons. First, bilingual education programs vary among and within the states. A few of the program variables affecting costs are funding levels, subjects and services provided, grade levels served, student time spent in the program, LEA capital outlay, and expenses for personnel and in-service training. Expenses are also affected by geographic cost differentials, differential populations of target students, and by the amount of state aid these additional students provide.

Generally, systematic data collection procedures do not enable SEA's and LEA's to show add-on costs of the programs. Substantial state and county level data processing capabilities are a necessity for such efforts.

Finally, program and recordkeeping differences have led to inadequacies in the program and fiscal research efforts undertaken to date. Some previous calculations were based on identification of "exemplary programs" or "ideal" programs developed by panels of experts. These techniques generated soft data that were not generalizable. Meanwhile, studies using actual costs and conditions attempted to account for too many variables or too few. The results have been described by National Center for Education Statistics' officials as "very weak." Canadian officials, however, estimate the cost of educating an immigrant student to be twice as great as that for a native born Canadian.

Under compulsory education laws, schools cannot refuse to educate a child due to lack of money, staff, or space. Since there is neither an available financial margin, nor Federal financial assistance, two choices exist for these states. First, the additional fiscal burden of educating immigrant children might fall squarely on the local taxpayer. Due to the regressive character of the property, sales, and use taxes that provide educational funding, disporportionate amounts are paid by low-income and elderly citizens least able to afford them. Moreover, most parents of school-age immigrants do not become taxpayers immediately because it is difficult for them to find jobs. Jobs that are available to immigrants often provide mere subsistence salaries, and contributions to all taxes are small.

Secondly, immigrant children with critical needs might be absorbed under existing budgets. This would cause cutbacks in programs for other children, particularly those with special needs.

Since only the Federal voice is heard in these mandates, a Federal responsibility exists to provide necessary finanical assistance so that hardpressed states and localities can meet Federal requirements. Currently, the Canadian Federal government offers a text-

book aid to local boards providing educational services to numbers of immigrant children. Federally imposed burdens cannot be met in the United States, and the education of all children will suffer unless a program of Federal aid based on already substantial precedent provides relief.

Further benefits are associated with Federal relief for immigrant education. Non-English-speaking students enrolled in bilingual programs attend schools more consistently and have lower dropout rates than bilingual students whose needs are not served. Increased attendance rates produce more state aid for LEA's, benefiting all students. Moreover, continuing school attendance of bilingual students and their later productive employment help to reduce levels of antisocial behavior and the resultant social and economic costs.

Since the provision of a free public education is the states' constitutional responsibility, direct administration and restrictive regulations should be avoided in legislation offering Federal aid for educating immigrant children. Flexibility is needed at state and local levels to provide for diverse needs.